SENATE

FRIDAY, JUNE 13, 1958

The Senate met at 10 o'clock a. m.

Rev. Herley C. Bowling, assistant secretary, Methodist Commission on Chaplains, Washington, D. C., offered the following prayer:

Our Father, we know that in Thy will lies peace and welfare for all mankind. May it be our purpose this day to serve our country well, that in serving it we may best serve Thee. May it be our country's purpose to seek Thy will and serve Thee well. Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

The legislative clerk read the following letter:

UNITED STATES SENATE,
PRESIDENT PRO TEMPORE,
Washington, D. C., June 13, 1958.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. BARRY GOLDWATER, a Senator from the State of Arizona, to perform the duties of the Chair during my absence.

CARL HAYDEN,
President pro tempore.

Mr. GOLDWATER thereupon took the chair as Acting President pro tempore.

THE JOURNAL

On request of Mr. JOHNSON of Texas, and by unanimous consent, the reading of the Journal of the proceedings of Thursday, June 12, 1958, was dispensed with.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Miller, one of his secretaries.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the House had passed a bill (H. R. 12541) to promote the national defense by providing for reorganization of the Department of Defense, and for other purposes, in which it requested the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H. R. 12541) to promote the national defense by providing for reorganization of the Department of Defense, and for other purposes, was read twice by its title and referred to the Committee on Armed Services.

COMMITTEE MEETINGS DURING SENATE SESSION

On request of Mr. JOHNSON of Texas, and by unanimous consent, the Banking and Currency Committee was authorized to meet during the session of the Senate today.

On request of Mr. JOHNSON of Texas, and by unanimous consent, the Committee on Public Works was authorized to meet during the session of the Senate today.

LIMITATION OF DEBATE DURING MORNING HOUR

Mr. JOHNSON of Texas. Mr. President, under the rule, there will be the usual morning hour; and I ask unanimous consent that statements in connection therewith be limited to 3 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of executive business, to consider the nominations on the calendar.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

EXECUTIVE MESSAGES REFERRED

The ACTING PRESIDENT pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

The ACTING PRESIDENT pro tempore. If there be no reports of committees, the nominations on the calendar will be stated.

COLLECTORS OF CUSTOMS

The Chief Clerk proceeded to read sundry nominations of collectors of customs.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that these nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations will be considered en bloc; and, without objection, they are confirmed en bloc.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The ACTING PRESIDENT pro tempore. Without objection, the President will be notified forthwith.

LEGISLATIVE SESSION

Mr. JOHNSON of Texas. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to; and the Senate resumed the consideration of legislative business.

EXECUTIVE COMMUNICATIONS, ETC.

The ACTING PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

REPORT PRIOR TO RESTORATION OF BALANCES, TREASURY DEPARTMENT

A letter from the Acting Secretary of the Treasury, transmitting, pursuant to law, a report covering restoration of balances withdrawn from appropriation and fund accounts under the control of that Department, as of May 20, 1958 (with an accompanying report); to the Committee on Government Operations.

RECOMMENDATIONS ADOPTED BY INTERNATIONAL LABOR ORGANIZATION

A letter from the Assistant Secretary of State, transmitting, pursuant to law, recommendations adopted by the International Labor Conference, at Geneva, June 26, 1956 (with accompanying papers); to the Committee on Labor and Public Welfare.

PETITIONS AND MEMORIALS

Petitions, etc., were laid before the Senate, or presented, and referred as indicated:

By the ACTING PRESIDENT pro tempore:

A resolution adopted by the City Council of the City of Los Angeles, Calif., relating to a world fair in the Los Angeles area in 1962; to the Committee on Foreign Relations.

A letter in the nature of a petition from California World's Fair, Inc., Los Angeles, Calif., signed by J. A. Smith, relating to a World Fair in the Los Angeles area in 1962 (with accompanying papers); to the Committee on Foreign Relations.

A resolution adopted by the City Council of the City of Chicago, Ill., favoring the enactment of legislation to provide for the acquisition of an area in the Indiana Dunes as a national park; to the Committee on Interior and Insular Affairs.

Petitions signed by sundry citizens of West Covina, and Baldwin Park, both in the State of California, relating to the Presidential veto of the omnibus rivers and harbors bill, and the completion of the comprehensive plan for conservation and control of floodwaters in the county of Los Angeles; to the Committee on Public Works.

IMPORTS OF ANTHRACITE COAL—RESOLUTION

Mr. HOBLITZELL. Mr. President, I ask unanimous consent to have printed in the RECORD, and appropriately referred, a resolution adopted by the United Mine Workers of America, concerning imports of anthracite coal.

There being no objection, the resolution was referred to the Committee on Foreign Relations, and ordered to be printed in the RECORD, as follows:

Whereas the United Mine Workers of America have constantly encouraged the export of American anthracite into world markets in their concern for the employment problems in the anthracite areas of the United States; and

Whereas the anthracite producing areas of the United States have been for many years the most seriously depressed labor areas in the entire United States; and

Whereas a low-ash anthracite suitable for use in the European markets has been and is being produced in the American anthracite mines; and

Whereas the American produced low-ash anthracite is competitive in the European market with anthracite produced by the competing nations of the world; and

Whereas the French market can and does purchase approximately 900,000 tons of prepared anthracite each year and is therefore a large potential market for low-ash prepared American anthracite; and

Whereas the French government by its actions and regulations has caused the French market to be supplied primarily by prepared anthracite imported from Russia and has thereby effectively closed the French market to prepared American anthracite; and

Whereas during the 1957–58 coal season France imported approximately 600,000 tons of prepared Russian anthracite and imported only 20,000 tons of prepared American anthracite; and

Whereas many French importers and users of anthracite wish to obtain American rather than Russian anthracite; and

Whereas it appears that France during the 1958–59 coal season will again import from Russia substantially all of its prepared anthracite requirements and will again effectively bar American prepared anthracite from the French market; and

Whereas the assistance of the United States Government is needed to prevent a continuation of this unfair discrimination in favor of Russian produced anthracite and against the United States produced anthracite: Now, therefore, be it

Resolved by the United Mine Workers of America, That the Honorable John Foster Dulles, Secretary of State, be advised that the United Mine Workers of America respectfully urges that no additional financial aid or assistance of any type or kind be granted or extended to the government of France until such time as the French government institutes the necessary reforms to terminate existing preferences or discriminations in favor of Russian produced prepared anthracite and permits American produced anthracite to compete in the French market on a free and equal basis; and

Resolved, That a copy of this resolution be presented to the Honorable John Foster Dulles, Secretary of State, and to several members of Congress from the coal producing areas of the United States.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON of South Carolina, from the Committee on Post Office and Civil Service, with an amendment:

S. 3829. A bill to extend certain franking privileges to the Secretary and the Sergeant at Arms of the Senate, and the Clerk and the Sergeant at Arms of the House of Representatives (Rept. No. 1705).

By Mr. FULBRIGHT, for the Committee on Banking and Currency, without amendment:

S. 3323. A bill to extend the Defense Production Act of 1950, as amended (Rept. No. 1708).

By Mr. KUCHEL, from the Committee on Interior and Insular Affairs, without amendment:

H. R. 9381. An act to designate the lake above the diversion dam of the Solano project in California as Lake Solano (Rept. No. 1707); and

H. R. 9382. An act to designate the main dam of the Solano project in California as Monticello Dam (Rept. No. 1706).

By Mr. MAGNUSON, from the Committee on Interstate and Foreign Commerce, with an amendment:

S. 3916. A bill to amend the Shipping Act, 1916 (Rept. No. 1709).

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. ANDERSON:

S. 4006. A bill to provide for continued delivery of water under the Federal reclamation laws to lands held by husband and wife upon the death of either; to the Committee on Interior and Insular Affairs.

By Mr. BEALL:

S. 4007. A bill for the relief of Magda Kusen Canjuga; to the Committee on the Judiciary.

By Mr. YARBOROUGH:

S. 4008. A bill to increase the maximum travel allowance for postal transportation clerks, acting postal transportation clerks, and substitute postal transportation clerks; to the Committee on Post Office and Civil Service.

(See the remarks of Mr. YARBOROUGH when he introduced the above bill, which appear under a separate heading.)

By Mr. BIBLE:

S. 4009. A bill to amend the act authorizing the Washoe reclamation project, Nevada and California, in order to increase the amount authorized to be appropriated for such project; to the Committee on Interior and Insular Affairs.

By Mr. McCLELLAN (by request):

S. 4010. A bill to provide for the receipt and disbursement of funds, and for continuation of accounts when there is a vacancy in the office of the disbursing officer for the Government Printing Office, and for other purposes; to the Committee on Government Operations.

(See the remarks of Mr. McCLELLAN when he introduced the above bill, which appear under a separate heading.)

CONCURRENT RESOLUTION

Mr. JOHNSON of Texas submitted a concurrent resolution (S. Con Res. 93) to provide for correction in the enrollment of S. 734, to revise the basic compensation schedules of the Classification Act of 1949, as amended, and for other purposes, which was considered and agreed to.

(See concurrent resolution printed in full when submitted by Mr. JOHNSON of Texas, which appears under a separate heading.)

INCREASED TRAVEL ALLOWANCE FOR CERTAIN POSTAL EMPLOYEES

Mr. YARBOROUGH. Mr. President, I introduce for appropriate reference a bill to increase the maximum travel allowance for postal transportation clerks and substitute postal transportation clerks.

All of us are aware of the high cost of living, and we are no less aware of the level of expenses incurred away from home. Postal transportation clerks receive $2.25 for each 6 hours that they are away from headquarters, following the passage of the first 10 hours.

The act of June 10, 1955, provides in section 607 (b) that such travel allowance may be paid "after the expiration of 10 hours from the time the initial run begins."

If my bill were to be enacted, it would mean that for each 6 hours after the first 10 this specially trained and most deserving type of public servant would receive $3 instead of $2.25.

This adjustment would merely make postal transportation clerks assigned to road duty eligible to receive the same maximum allowances already available to other Federal employees in travel status. It would not alter the requirement that travel allowance may be paid only after the expiration of 10 hours from the time of commencing work. This stringent limitation is restricted to postal transportation clerks and because it lowers the amount actually received, this procedure should justify a rate of allowance to these employees which is greater instead of less than that paid to other Federal employees while traveling.

If my bill is enacted, the 10-hour exemption will still operate to give to these people a lower rate than that paid to other Federal employees in travel status.

Under present law postal transportation clerks receive travel allowance at the rate of $9 per day. The 10-hour exemption reduces the amount actually received in the first 24 hours to $6.75.

Under my bill the rate would be increased to $12 per day. The 10-hour exemption would then make the actual payment $9 for the first 24-hour period. Other Federal employees receive $12 for this same length of time.

Postal transportation clerks assigned to road duty eat in the same restaurants as those patronized by other Federal employees away from home. In many cases they also stop at the same hotels and pay the same rates.

Feeling that this change in the law is just and necessary, I hope the Senate will take early action on the bill this year.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred.

The bill (S. 4008) to increase the maximum travel allowance for postal transportation clerks, acting postal transportation clerks, and substitute postal transportation clerks, introduced by Mr. YARBOROUGH, was received, read twice by its title, and referred to the Committee on Post Office and Civil Service.

RECEIPT AND DISBURSEMENT OF FUNDS IN GOVERNMENT PRINTING OFFICE UNDER CERTAIN CIRCUMSTANCES

Mr. McCLELLAN. Mr. President, I introduce, for appropriate reference, a bill to provide for the receipt and disbursement of funds, and for continuation of accounts when there is a vacancy in the office of the disbursing officer for the Government Printing Office, and for other purposes.

This bill is being introduced in response to a request submitted to the President of the Senate by the Public Printer. In his letter to the President of the Senate, the Public Printer stated that the proposed bill has been referred to the Bureau of the Budget and that the Government Printing Office has been advised that a similar bill relating to the Post Office Department was cleared by that office last year with the approval of the Treasury Department, the General

Accounting Office, and the Department of Justice.

I ask unanimous consent that the letter from the Public Printer together with a communication addressed to the Director of the Bureau of the Budget and a report from that agency be printed in the RECORD at this point as a part of my remarks.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the letters and report will be printed in the RECORD.

The bill (S. 4010) to provide for the receipt and disbursement of funds, and for continuation of accounts when there is a vacancy in the office of the disbursing officer for the Government Printing Office, and for other purposes, introduced by Mr. MCCLELLAN (by request), was received, read twice by its title, and referred to the Committee on Government Operations.

The letters and report presented by Mr. MCCLELLAN are as follows:

UNITED STATES GOVERNMENT
PRINTING OFFICE,
Washington, D. C., May 26, 1958.

The PRESIDENT OF THE SENATE,
United States Senate,
Washington, D. C.

SIR: It is respectfully requested that the attached draft bill containing proposed legislation pertaining to the Government Printing Office be introduced before the Congress.

The purpose of this bill is: "To provide for the receipt and disbursement of funds and for continuation of accounts when there is a vacancy in the office of the disbursing officer for the Government Printing Office, and for other purposes."

The proposed bill has been referred to the Bureau of the Budget and we have been advised that a similar bill relating to the Post Office Department was cleared by that office last year with the approval of the Treasury Department, the General Accounting Office, and the Department of Justice. Also, that the Bureau of the Budget has checked informally with the above agencies and they have raised no objections.

Very truly yours,
RAYMOND BLATTENBERGER,
Public Printer.

(Enclosures: Copy of letter from Public Printer to Director of Bureau of the Budget, dated April 28, 1958, and draft of bill; copy of letter from Acting Assistant Director for Legislative Reference, Bureau of the Budget, dated May 19, 1958.)

UNITED STATES
GOVERNMENT PRINTING OFFICE,
Washington, D. C., April 28, 1958.

Hon. MAURICE STANS,
Director, Bureau of the Budget, Executive Office of the President, Washington, D. C.

DEAR MR. STANS: Public Law 85-340, approved March 15, 1958, "Post Office Departments—Disbursing Officer—Vacancy—Issuance of Checks," makes provision for the issuance of checks and continuation of accounts when there is a vacancy in the office of the disbursing officer for the Post Office Department.

From a review of this bill and the report on same, House Report No. 1369, it seems that a somewhat similar provision of law should be available when there is a vacancy in the office of the disbursing officer for the Government Printing Office.

A proposed bill, which has been informally reviewed by your legal authorities prior to formal transmittal to your office for submission to the Congress, is enclosed. This proposed bill would also have the effect of changing the title of disbursing clerk of the Government Printing Office (see sections 50, 51, 52, and 73, of title 44, U. S. Code) to disbursing officer for the Government Printing Office.

If there are no objections to this proposed legislation, an early submission to the Congress would be appreciated.

Very truly yours,
JOHN M. WILSON,
Acting Public Printer.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D. C., May 19, 1958.

Hon. RAYMOND BLATTENBERGER,
Public Printer, United States Government Printing Office, Washington, D. C.

DEAR MR. BLATTENBERGER: Attached is the draft bill "To provide for the receipt and disbursement of funds and for continuation of accounts when there is a vacancy in the office of the disbursing officer for the Government Printing Office, and for other purposes," on which our opinion was requested in Mr. Wilson's letter of April 28, 1958. We have reviewed the bill, and it seems to us to be in good order.

The similar bill relating to the Post Office Department was cleared by this office last year with the approval of the Treasury Department, the General Accounting Office, and the Department of Justice. We have checked informally with these agencies and they raise no objection to your bill.

Sincerely yours,
PHILLIP S. HUGHES,
Acting Assistant Director for Legislative Reference.

LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT OF 1958—AMENDMENTS

Mr. MUNDT submitted amendments, intended to be proposed by him, to the bill (S. 3974) to provide for the reporting and disclosure of certain financial transactions and administrative practices of labor organizations and employers, to prevent abuses in the administration of trusteeships by labor organizations, to provide standards with respect to the election of officers of labor organizations, and for other purposes, which were ordered to lie on the table, and to be printed.

EXTENSION OF EXISTING CORPORATE NORMAL-TAX AND CERTAIN EXCISE-TAX RATES—AMENDMENTS

Mr. MCNAMARA submitted amendments, intended to be proposed by him, to the bill (H. R. 12695) to provide a 1-year extension of the existing corporate normal-tax rate and of certain excise-tax rates, which were ordered to lie on the table, and be printed.

RECOVERY BY THE STATES OF CERTAIN UNCLAIMED PERSONAL PROPERTY—ADDITIONAL COSPONSORS OF BILL

Under authority of the order of the Senate of June 4, 1958, the names of Senators BYRD, BUSH, and BARRETT were added as additional cosponsors of the bill (S. 3937) to facilitate the discovery and recovery by the States of unclaimed personal property in the custody of Federal agencies, and for other purposes, introduced by Mr. HUMPHREY (for himself and Mr. JAVITS) on June 4, 1958.

FEDERAL ETHICAL STANDARDS ACT OF 1958—ADDITIONAL COSPONSOR OF BILL

Mr. NEUBERGER. Mr. President, I ask unanimous consent that the name of the distinguished Senator from Pennsylvania [Mr. CLARK] may be added as a sponsor of the bill (S. 3979) to promote ethical standards of conduct among Members of Congress and officers and employees of the United States, and for other purposes, introduced by me on June 11, 1958.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ADDRESSES, EDITORIALS, ARTICLES, ETC., PRINTED IN THE RECORD

On request, and by unanimous consent, addresses, editorials, articles, etc., were ordered to be printed in the RECORD, as follows:

By Mr. JACKSON:

Address entitled "An Academy of National Policy," delivered by him at the graduation ceremony of the Industrial College of the Armed Forces, at Washington, D. C., on June 11, 1958.

By Mr. HILL:

Commencement address delivered by him at Hahnemann Medical College, Philadelphia, Pa., on June 12, 1958.

By Mr. WILEY:

Article entitled "One Hundred Fifty Help Wright in Observance of His 89th Birthday Fete," written by Herb Jacobs, and published in the Capital Times of June 9, 1958.

NOTICE CONCERNING CERTAIN NOMINATIONS BEFORE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been received and are now pending before the Committee on the Judiciary:

Harry R. Tenborg, of North Dakota, to be United States marshal, for the district of North Dakota, for a term of 4 years—reappointment.

Herbert G. Homme, Jr., of North Dakota, to be United States attorney for Guam, for the term of 4 years—reappointment.

Robert Vogel, of North Dakota, to be United States attorney for the district of North Dakota, for a term of 4 years—reappointment.

Julian T. Gaskill, of North Carolina, to be United States attorney for the eastern district of North Carolina.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Friday, June 20, 1958, any representations or objections they may wish to present concerning the above nominations, with a further statement whether it is their intention to appear at any hearings which may be scheduled.

TRIBUTE TO EUGENE MEYER, OF WASHINGTON POST AND TIMES HERALD

Mr. NEUBERGER. Mr. President, behind every great institution is generally some one person who provides the inspiration and the drive to make it a success. This is particularly true of great and outstanding newspapers in the United States. Every newspaper of distinction generally needs a publisher or an owner who has his eye and his mind on the publication of truthful information, rather than solely on the cash register.

In the case of the Washington Post and Times Herald, of Washington, D. C., one of the illustrious periodicals of the Nation, this man is Mr. Eugene Meyer. The Washington Post, as it then had its nomenclature, was purchased by Mr. Meyer some quarter of a century ago, when the newspaper was at a low ebb in its destiny, its financial status, and its prestige. However, under his leadership and guidance, the Post has now become strong financially and also strong in its influence in our seat of Government and in the country as a whole.

On today, June 13, 1958, the Post has paid tribute to its principal owner, in an editorial entitled "Public Conscience." I ask unanimous consent that the editorial be printed in the body of the RECORD, in connection with my remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

PUBLIC CONSCIENCE

The love and admiration which members of this newspaper hold for the man who has guided it for a quarter century need no further public expression on his 25th anniversary of the purchase of the Washington Post by Eugene Meyer. What is of public importance is the vigor and distinterestedness with which the independent newspaper he built seeks to serve its audience; and that is for readers to judge.

Mr. Meyer has had a simple and abiding objective for the Washington Post: to tell all of the truth, so far as it can be ascertained, and to present informed comment on public affairs. He also has supplied the basic criteria by which editorial policy is formulated in individual situations: belief in constitutional government, civil liberties, an expanding free economy and international cooperation, and a recognition that good means are as important as good ends.

Chief Justice Warren, in a tribute this week, took note of Mr. Meyer's recognition that the special protections of the first amendment carry with them an unwritten obligation for a newspaper to serve not only its own interest but also the national interest—"as if an oath of office stood behind each printed line. One thing in the Nation's Capital does not change," said the Chief Justice. "It is the public conscience of the Washington Post."

That is a high and humbling challenge. Like all human creations, this newspaper makes mistakes; but the concept of public trust outlined by Mr. Meyer is and will continue to be its foremost consideration. We take this opportunity, on the occasion of Eugene Meyer's silver anniversary in journalism, to rededicate the Washington Post to the principles for which he has always stood in his public and private life.

Mr. KNOWLAND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CASE of New Jersey in the chair). The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. KNOWLAND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT OF 1958—EDITORIAL

Mr. HOBLITZELL. Mr. President, I should like to read into the RECORD an editorial from the New York Herald Tribune of June 13, 1958, under the heading "Putting Teeth in KENNEDY's Tiger":

Thanks to the floor amendments by Senator JOHN SHERMAN COOPER, the labor reform bill is beginning to look a lot more like what its name betokens. He has plugged up at least a couple of the big holes Senator JOHN (Profiles in Courage) KENNEDY left in the bill.

As the bill emerged from KENNEDY's hands, it was singularly devoid of teeth. It was a paper tiger. For example:

It purported to guarantee free elections, and open financial records, for all union members. But the fine print exempted those with less than 200 members—the kind of paper locals that gangster Johnny Dio likes to use to blackmail and threaten decent citizens. COOPER plugged that gap.

It authorized the Secretary of Labor to investigate such unions, but gave him no power of subpena. COOPER plugged that, too.

It prohibited union officeholding by individuals convicted of crimes, involving the taking of money. But it would not lay a single finger on hoods, for example, like Barney Baker, a strong-arm man for the Teamsters who served two terms for stench-bombing, was the associate of the notorious waterfront murderers, James Dunn and Denny Gentile, and who has been arrested for carrying concealed weapons. This gap is still open. These omissions were no accident. KENNEDY is a lawyer. He knows a loophole when he sees one.

With typical demagoguery, the Democratic National Committee accused Republican critics of this phony bill of wanting to smash labor unions.

That's a foul lie. The American people are fed up to the teeth with the arrogance and crookedness of corrupt union leaders. So are union members. They want the books and election procedures of all union locals put on a democratic basis, not a dictator basis.

Let us hope there are enough Senators on both sides of the aisle with the moral courage and plain, old-fashioned honesty to vote a bill that says what it means and means what it says. KENNEDY's bill did not.

INDIANA DUNES

Mr. DOUGLAS. Mr. President, some days ago I introduced a bill to have the Federal Government purchase approximately 3,500 acres of land in the Indiana Dunes and to create a national monument there.

Since then the proposal has been endorsed by the Chicago City Council, and I ask unanimous consent that the resolution of the council be printed in the RECORD at this point in my remarks.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

UNITED STATES CONGRESS MEMORIALIZED TO ENACT PENDING LEGISLATION TO ACQUIRE PORTION OF INDIANA DUNES AS NATIONAL PARK

"Whereas, the Indiana Dunes constitute a unique and invaluable recreation area for the people of the United States and especially for all the people of the States bordering on Lake Michigan; and

"Whereas this great recreation area should be preserved: Now, therefore, be it

"*Resolved*, That the City Council of the City of Chicago hereby memorializes the Congress of the United States to enact the measure pending before it for the acquisition of an area in the Indiana Dunes as a national park, for the benefit of all the people of this Nation."

On motion of Alderman Bohling (seconded by Alderman Despres) said proposed resolution was adopted.

Mr. DOUGLAS. The proposed legislation has also been endorsed by the Chicago Daily News, a leading newspaper of the Midwest. I ask unanimous consent that an editorial supporting the proposal be printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SAVE THE INDIANA DUNES

Senator DOUGLAS, Democrat, of Illinois, has introduced in the Senate a bill to create an Indiana Dunes National Monument in a 3,500-acre area fronting on a 4-mile strip of Lake Michigan shoreline east of Gary.

Gov. Harold W. Handley of Indiana has bitterly attacked DOUGLAS for what he calls his meddling in Indiana affairs.

The dunes area which DOUGLAS would preserve is owned by two large steel companies.

Steel mills have been projected there, as well as deep water port facilities.

Senator DOUGLAS paved the way for Congressional consideration of his save-the-dunes measure by taking to television and radio to tell Indiana and Illinois residents that Handley ought to be ashamed of himself for supporting the industrialization of the region.

Handley fired back by telling DOUGLAS to "mind his own business and take care of Illinois."

It is our opinion that Senator DOUGLAS is not only taking care of Illinois but is also serving the national interest in advancing his proposal.

Hundreds of thousands of Illinoisans, Indianians and other residents of the Middle West have used this magnificent recreation area since the earliest days of settlement.

At one time the dunes, an unusual expanse of moving, wind-blown mounds formed from the Lake Michigan beach sands, extended for 25 miles along the shore.

Except for the 3-mile stretch of shoreline incorporated in the Indiana Dunes State Park in the 1920's, the area which DOUGLAS would preserve is all that is now left of one of the Midwest's finest outdoor resources.

It is a wonderland of bird life, where more than 300 species pass through in migration. And Prof. H. C. Cowles, the noted botanist, says, "There are few places on our continent where so many species of plants are found in so small a compass."

Senator DOUGLAS wants the Department of Interior to purchase the 4-mile strip between Ogden Dunes and Dunes Acres and preserve it and develop it for the benefit of the public. We believe the Congress should earnestly consider his conservation appeal.

Mr. DOUGLAS. The proposal has also been endorsed by the East Chicago, Ind., Globe. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

Senator DOUGLAS of Illinois introduced a bill in the Senate which would (if passed) make a national park out of the sand dunes area between Gary and Michigan City. This of course, would stop construction on any proposed new steel mills in that area. There are two such mills in the planning stages at this time.

The Douglas bill is a good one inasmuch as the area in question has become a scenic vacation spot of national fame, one which will grow in popularity as the years march by.

Steel mills dirty the horizon of the lake shore all the way from South Chicago to Gary. That 25 mile stretch of beautiful sand dunes should remain as nature created it and not be ruined by the dirt and filth which invariably follows the construction of steel mills in any area.

Furthermore, America does not have enough business to keep our existing steel mills operating at full capacity, so why build more steel mills?

ADMINISTRATION OPPOSITION TO A TAX CUT

Mr. DOUGLAS. Mr. President, I ask unanimous consent that a very able editorial from the St. Louis Post-Dispatch for Saturday, June 7, 1958, be printed in the RECORD at this point. The editorial criticizes the attitude of the Eisenhower administration in opposition to a tax cut and favors positive action by our Government to get out of the slump.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

HOW LONG AT BOTTOM?

The employment situation shows a very slight improvement, steel production is rising and new construction in May went up 10 percent over April. Welcome as this news is, it does not justify the administration's continued inaction and it does not change the basic fact that the national economy has stopped growing. Since new workers are joining the labor force every month, stagnation can be as costly as decline. Every month of official paralysis in Washington costs the Nation billions of dollars in lost production.

Unfortunately, for every optimistic indicator so far there is a less favorable one. Thus though steel output has turned upward (perhaps because buyers are trying to beat an anticipated price increase), the industry is still producing at less than 60 percent of capacity. Though new construction is better than it was in April, it still shows no marked improvement over this time a year ago. And though unemployment has declined by 200,000 to 4,900,000, due largely to seasonal expansion of farm and service jobs, the key fact remains that employment in manufacturing industry, where the recession has been centered, is still falling.

Nor have any sure signs of substantial improvement in the immediate future made their appearance. Business spending for capital goods is now expected to fall this year below the $32 billion estimated earlier, and may not start rising again until 1959. Government spending is up, but not enough to compensate fully for the drop in business spending. Consumers fortunately seem to have stabilized their buying at a relatively high level; if they continue to buy, the Nation can legitimately hope that the bottom has been reached.

The big question is how long we are going to stay on the bottom. It is ominous that the talk of a late-summer, early-fall recovery now tends to shade into vaguer talk of an upturn maybe in 1959. The Congressional Joint Economic Committee staff foresees unemployment of 5 million to 5,500,000 persisting into next winter, perhaps touching 7 million next spring. Even the determinedly optimistic Guaranty Survey concludes that—

"It is somewhat difficult to become enthusiastic over prospects for sharp recovery this fall. And anything less than sharp recovery will leave the economy burdened with what some people undoubtedly will regard as an intolerably high total of unemployment."

Yes, some people undoubtedly will regard 7.5 to 8 percent of the labor force as an intolerable high level of unemployment—certainly too high to be allowed to become chronic. The Post-Dispatch believes that the Federal Government ought to move strongly against the recession now—with tax cuts, with public works, with an energetic determination to cause, rather than wait for, full recovery.

The administration favors inaction on the ground that we face a large Treasury deficit next year. But the deficit will be larger still if an upturn fails to materialize this year. Is it not more prudent to put an end to stagnation and the lost production of an underemployed economy?

At a time when the Soviet economy is expanding rapidly, and when every month of delayed recovery increases the strain on our allies abroad, the United States simply cannot afford the risk of continued slump.

PROGRAM FOR VOLUNTARY PRICE-WAGE STABILIZATION

Mr. KEFAUVER. Mr. President, reporting on a poll among steel producers, the trade magazine Steel stated on May 12 that steel prices will probably rise $4 to $6 a ton on July 1. I am sure each Member of this body has noticed that this same prediction appeared in current weekly news magazines, as well as newspapers. I am satisfied that, unless extraordinary action is taken by President Eisenhower, steel prices will be increased substantially on July 1. If the past can be accepted as an indication of what will happen generally throughout American industry if such price increase is made, we can expect another round of inflation.

Let us consider the prospects if steel prices actually are increased. There will be higher direct costs to steel buyers. The Subcommittee on Antitrust and Monopoly found that the July 1, 1957, steel-price rise, which was on the average of $6 per ton, increased the direct cost of steel shipped by some $540 million a year. However, by the time this direct increase reaches the ultimate consumer, it will be considerably greater, since it tends to pyramid. This pyramiding results from the efforts of producers and distributors, at each stage, to raise prices by amounts sufficient to cover not only the direct higher costs of steel to themselves, but also to preserve their customary percentage margins.

With the increase in the price of steel, the producers of consumers' goods, including automobiles, may be expected to raise their prices. The ultimate effect, of course, will be to reduce consumption. This is particularly true with respect to durable goods, as to which most of our present recession is centered. We might expect, with reduced consumption, that production and employment will fall to even lower levels than exist today. The paradox of this downswing will become even more striking—increased prices accompanied by falling output and jobs.

Up until recently the steel industry has been operating at approximately 50 percent of capacity. It is my opinion that although at present the steel industry is reported to be operating at approximately 60 percent of capacity, much of this increase reflects orders placed in anticipation of the coming July 1 price increase. The automobile industry, as against an estimated annual capacity of 9 to 10 million cars, is operating at a current estimated automobile output this year of only 4.2 million cars, or below 50 percent of capacity. These substantial decreases in production as a percentage of capacity have occurred in other durable-goods industries as well. Take heed of this: As low as is production in these industries, their operating rates can sink to even lower levels if the prices of goods to consumers are increased. This will most certainly take place if the price of steel is again advanced.

I note again that the spokesmen for the steel industry state that the increase which is to be announced on July 1 is again traceable to the added costs arising from the provisions of the 3-year contract between the steel companies and the United Steel Workers of America. Again, if the past is to provide any clue to the future, it is reasonable to anticipate that this price increase will again be at least twice the rise in the costs resulting from wage increases. This is the conclusion reached by the majority of the Senate Subcommittee on Antitrust and Monopoly, on the basis of an extensive inquiry last fall into administered prices in the steel industry.

The PRESIDING OFFICER (Mr. TALMADGE in the chair). The time of the Senator from Tennessee has expired.

Mr. KEFAUVER. Mr. President, I ask unanimous consent that I may proceed for 6 additional minutes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee? The Chair hears none, and it is so ordered.

Mr. KEFAUVER. Mr. President, it appears to me that clearly the time for action is at hand. Every step should be taken to prevent the announced increases in steel prices from taking effect. According to a recent survey of consumer buying intentions conducted by the National Bureau of Economic Research, plans to buy new cars were 20 percent lower in April than last October. Intentions to buy major consumer durable goods such as ranges, refrigerators, TV sets, freezers, and so forth, dropped on the average by more than 10 percent. If the prices of these products are again raised, as they certainly will be if steel prices are increased, the decline in actual purchases can be expected to be even greater than is indicated by the survey.

I am convinced that steps short of mandatory controls can be taken by the executive branch of the Government—as indeed they have been taken in the

past—which would result in a considerable degree of success. I refer to voluntary measures of one type or another. Their use was strongly urged by eminent economists appearing before the Antitrust and Monopoly Subcommittee. Between August 1939 and February 1942, all of the price- and wage-restraining efforts by the Government were on a voluntary basis. By the time the Price Control Act was passed in early 1942, the prices of many basic commodities, including steel, had already been successfully stabilized by voluntary measures. The success of such a program is also attested by a comparison of price increases in those industries where voluntary measures were applied with the increases that occurred during comparable periods before World War I. Thus between July 1914 and November 1916 the list price of steel rose 103 percent. During the comparable 28-month period between August 1939 and December 1941 it advanced only 2 percent. Other comparisons are equally as impressive.

After giving this matter considerable thought, realizing that there is no statutory authority for the establishment of mandatory price and wage controls—and not wishing to become an advocate for the establishment of any such authority at this time—I recently transmitted by letter to President Eisenhower a suggested program which I believe would be most effective.

In suggesting to the President that he institute a voluntary price-and-wage-control program, I pointed out that among specific voluntary measures which had been taken, and which could be used at this moment, are: First, informal conferences between an industry's leaders and Government representatives; second, public requests to an industry to abstain from making a proposed price increase; third, the issuance of brief summary analyses of an industry's prices, profits, and production, indicating generally whether a price advance is required and, if so, its approximate extent; fourth, the issuance on a voluntary basis of suggested price ceilings; and, fifth, efforts to persuade labor that for the welfare of the economy they should hold the wage line and avoid inflationary wage increases.

Mr. President, the only force behind such voluntary measures would be public opinion, but this is a force to be reckoned with. Large corporations, such as steel and automobile companies, do not disregard public opinion lightly. Once our citizenry have the facts, their enlightened awareness can be equally powerful as any statute in preventing unjustified price and wage increases. In advancing this program to the President I had every hope and belief that such a program would receive the full cooperation of labor. If labor organizations were to persist in demands which exceed productivity gains and require significant increases in prices, the spotlight of publicity should be turned on them.

The recommendation for action which I outlined to the President grew out of voluminous testimony and evidence presented to the Senate Antitrust and Monopoly Subcommittee in its inquiry on administered prices. These hearings clearly indicate that large corporations, such as steel and automobile manufacturers, have the power to effectively set aside the law of supply and demand. Because of the immense consequences of their decisions, the managers of these huge corporations must be made forcefully aware of their responsibilities to the public welfare. Voluntary price-wage stabilization programs would accomplish that objective. From my study of the causes of the present recession, I am satisfied that much present-day buyer resistance stems from a lack of confidence in the future. I am also convinced that this lack of confidence comes from the large number of unemployed. Is it not logical to believe that the large number of employees who are employed, even at all-time high wages, might very well be curtailing their purchases because many of their fellow employees have been laid off and are presently out of jobs?

Having recently talked with the heads of several large corporations who indicated a willingness to enter into a voluntary program of rehiring laid-off employees, I suggested to President Eisenhower that if he would appeal to the heads of industry to voluntary rehire, at least for a trial time, some percentage, say 5 percent, based on their payroll—such an appeal might very well be successful. If only the 500 largest corporations were to increase their employment by 5 percent, the increase in total employment would approximate 400,000. Putting that many people to work would go far toward a restoration of confidence and help in overcoming the recession.

By letter of June 3 in answer to my letter of May 22, President Eisenhower advised that the general approach of my letter had been the subject of much thought and discussion, both in and out of Government, but that in his judgment he could best discharge his responsibility in this matter by continuing on the course which he had set rather than by adopting the public conference approach.

I am satisfied that the President will continue his program and efforts toward the end of fostering wage-price policy in the national interest. I most certainly and sincerely hope that whatever the President's program is, it will be successful in fostering a wage-price policy in the national interest. I am satisfied, however, that if the President would use the full powers of his office, he could most certainly deter the further raising of prices by steel or any other industry. He could likewise, in my opinion, deter any labor union from demanding any increase in wages unless it could be shown that, correspondingly, productivity would be so increased.

Unless the President's program is successful in dissuading the steel industry from advancing its prices on July 1 coming, I fear the economic consequences of such price increases. We can ill afford for the managers of our basic industries or leaders of our larger labor unions to play an economic chess game with the public welfare. Leaders of industry and labor must be made aware of the dire consequences of their actions. The time is long past when we can afford the luxury of a power game between labor and management, each attempting to prove the other is a scapegoat for increased prices. The great American public deserves more consideration. I, for one, say we cannot stand idly by and see this power game continue to the detriment of the public interest.

THE CRISIS IN LEBANON

Mr. MANSFIELD. Mr. President, I note that the United Nations Security Council voted 2 days ago to set up an observation group on urgent basis "to insure that there is no illegal infiltration of personnel or supply of arms or other material across Lebanese frontiers." The vote on this measure was 10 to 0 with the Soviet Union abstaining. The United States took a position in support of this action.

It seems to me that this action of the Security Council and the position of the United States with respect to it is a step in the right direction. It is an important initiative for stability in the highly volatile situation in the Middle East.

In a statement in the Senate on May 22, I made the following observation:

> What the United States can support, indeed, what we must support are international efforts to put at rest any genuine fears of aggression, Arab of Israeli or Israeli of Arab or, indeed, Arab of Arab. To that end, Mr. President, it seems to me high time for this country to take an initiative for peace. It seems to me high time to propose in the United Nations the extension of the United Nations Emergency Force to the borders of any country in the Middle East which is concerned with aggression from a neighbor and which asks for that safeguard. It is time, in short, to determine who is really afraid of war and who is really afraid of peace in the Middle East.

The action of the executive branch in clearly supporting the resolution of the Security Council on the Lebanon situation is a step in accord with that observation, and I am fully in accord with it.

RESTRICTIONS ON TRAVEL OF AMERICAN CITIZENS TO FOREIGN COUNTRIES

Mr. FULBRIGHT. Mr. President, I ask unanimous consent to have printed at this point in the RECORD a report submitted by the State Department on S. 2770, introduced by me, and on S. 3344, introduced by the senior Senator from Missouri [Mr. HENNINGS]. Both measures deal with the policies covering the issuance of passports and on restrictions on travel of American citizens to foreign countries.

There has been considerable interest in the press and elsewhere in the passport policies of the United States Government. I, therefore, feel that it would serve a useful purpose for the views of the Department to be published in the CONGRESSIONAL RECORD in order that the observations of the Department of State might be available to interested persons.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

MAY 19, 1958.

Hon. THEODORE FRANCIS GREEN,
Chairman, Committee on Foreign Relations, United States Senate.

DEAR SENATOR GREEN: Reference is made to the letter of March 13, 1958, of the Committee on Foreign Relations signed by Mr. Carl Marcy, chief of staff. The committee requested the comments of the Department of State on S. 2770, introduced by Senator FULBRIGHT, and on S. 3344, introduced by Senator HENNINGS. Both bills deal with the passport question and with restrictions on the travel of American citizens to foreign countries.

As this committee is aware, cases are pending before the Supreme Court of the United States in which the Department's passport procedures and regulations have been challenged. It is therefore difficult for the Department to comment definitely on any legislative proposals in this field until the precise limits of authority under the Constitution shall have been traced by the Court. Nevertheless, a number of observations may be made at this time, in line with the Government's position as expressed in its written and oral arguments before the Supreme Court.

It should be borne in mind that the Secretary of State, as the representative of the President, is the official of this Government in charge of the conduct of foreign affairs. This principle has been recognized by the Congress (5 U. S. C. 156). The question of whether or not a passport should be issued necessarily involves questions of foreign affairs. From its very nature a passport is a request to governments of foreign countries for which it is valid asking those governments, as the passport itself states, "to permit [the bearer] safely and freely to pass and in case of need to give all lawful aid and protection" to him. The Secretary of State must have discretion to determine whether the presence of a particular individual in a foreign country would affect foreign relations and also whether travel of American citizens generally to a particular foreign country would have a similar effect. This has also been recognized by the Congress (22 U. S. C. 211 (a)). As has been said by the Court of Appeals for the District of Columbia in *Shachtman* v. *Dulles* (225 F. 2d 938, 942), "the issuance of passports throughout our history has been left to the judgment of the Secretary of State under Presidential regulation, and is subject only to constitutional safeguards. And even these must be defined with cautious regard for the responsibility of the Executive in the conduct of foreign affairs."

Neither the Fulbright bill nor the Hennings bill recognizes the right of the Secretary of State to refuse a passport for the reason that the presence of the individual in a foreign country would adversely affect foreign affairs. Under the terms of the bills it appears that the Secretary of State could not deny passport facilities, even to a professional espionage agent or to an American going abroad to assassinate the head of a government with which our relations may already be strained. It seems clear that the activities of such individuals abroad would have an immediate and serious effect upon our foreign relations, if not our national security. There is also the less improbable hypothesis of the American going abroad to engage in activities designed to influence the outcome of a foreign political election, thereby interfering in the internal affairs of a foreign country and possibly endangering immediate interests of the United States. The Secretary of State, as responsible officer for the conduct of our foreign relations, should not be constrained to issue him a passport.

Present regulations provide for the refusal of passport facilities on such grounds, and the Department opposes any legislative measure which would deprive the President's chief officer concerned with foreign affairs the discretionary power of declining to sanction American travel abroad which would be prejudicial to the orderly conduct of foreign relations.

It may also be necessary from time to time to restrict travel of citizens generally to certain areas in the interest of foreign affairs. The Fulbright bill possibly has this in mind in permitting restriction of travel to "countries to which the President finds that travel should be restricted in the national interest," but this restriction would be limited to 1 year by the terms of the bill. The Hennings bill makes no provision for such a contingency. World conditions, and those in particular countries and areas, as to which the Executive has special information not available to the legislative branch and on the basis of which he is specially qualified to make decisions, may well require the imposition of such restrictions and may require that they be continued for a longer period than 1 year.

The Department's administration of the present Executive regulations does not reflect abuse of the passport power, with regard either to individual or to general geographic restrictions. Administrative procedures now in force pay scrupulous regard to the individual's rights to procedural and substantive due process of law. And the power to impose or to cancel general geographic restrictions on passports is undeniably useful, both as a means of endeavoring to protect our citizens from hazards due to armed conflicts or natural disasters in foreign countries, and also as an instrument of foreign policy. This latter aspect is exemplified by the cancellation, on October 31, 1955, in connection with the Geneva Conference of Foreign Ministers, of passport restrictions on American travel to certain European countries in the Soviet bloc, and by the imposition in February 1956 of the requirement of passport validation for travel to Hungary, one of the measures taken in connection with our protests against harassment of legation employees and newspaper correspondents in Budapest.

Under the Hennings bill, in the absence of involvement of this country in war or open hostilities, any American could visit areas declared "unsafe for travel" with a passport in his possession, merely by filing a waiver of the protection of this Government. In effect, therefore, a policy determination against travel to a particular country would be rendered meaningless and an important instrument in the conduct of foreign relations would be destroyed.

Every citizen has the right to relinquish the protection of this Government by voluntarily expatriating himself. But so long as the bond of allegiance is not broken by expatriation, this Government must retain its right under international law—and its duty under any reasonable view of national political responsibility—to protest, in the interest of the Nation as a whole, unjust treatment accorded to an American by a foreign government, even if the citizen himself does not request this Government's protection.

The Department is of the opinion that a waiver by a citizen of the protection of his Government would have little, if any, legal effect, because diplomatic protection is the right of the Government to be exercised in the discretion of the Government, and the individual citizen has no right to insist on it or disavow it. Moreover, Congressional sanction of such waivers would immeasurably weaken any protest or claim made by this Government to a foreign government on behalf of an American citizen who might have filed such a waiver but who must nevertheless be the subject of protective measures because of national or international policy considerations.

For both policy and legal reasons, therefore, the Department must oppose the waiver provision of the Hennings bill.

Both the Fulbright and the Hennings bills provide for an appeal to the United States district court from any final administrative decision on passport cases. While the scope of judicial review intended by those provisions is not clear, judicial review is now being given, independently of statute, with respect to questions of impairment of constitutional rights, procedural due process and compliance by the Department with statutory and regulatory requirements. If the intent of the provisions of the bills under consideration is to broaden the scope of judicial review by substituting the discretion of the courts for the discretion of the Secretary of State, then the Department must oppose those provisions.

The foregoing policy observations and the more technical comments enclosed with reference to each of the two bills sufficiently indicate, it is believed, the reasons for the Department's opposition to these bills. The Department appreciates the opportunity afforded by this committee to study the effect of the bills, in line with the remarks of Senator FULBRIGHT at the time he introduced S. 2770, when he expressed the hope that the bill would serve to stimulate study and discussion of the passport problem. As he pointed out, no case on the subject had then come to the Supreme Court of the United States. In any event, the Department is in complete agreement with the objective that travel by Americans abroad should be as free from governmental restraint as possible, consistent with the requirements of national security and the conduct of foreign affairs.

The Department believes that the present laws relating to travel control and passports provide an adequate basis for its operations. However, if in the Department's opinion any legislative changes should prove necessary or desirable in the light of forthcoming determinations by the Supreme Court, recommendations will be submitted promptly by the Department to the Congress.

In accordance with the request contained in the Committee's letter of March 13, 1958, there is also enclosed a schematic comparative analysis of the two bills with each other and with existing law, regulations, and practice.

This letter and its enclosures have not been cleared with the Bureau of the Budget. Copies, however, have been furnished the Bureau for its information.

Sincerely yours,

WILLIAM B. MACOMBER, Jr.,
Assistant Secretary
(For the Secretary of State).

COMMENTS ON OTHER PROVISIONS OF THE FULBRIGHT BILL

1. Although Communist Party members or recent members may be denied passports, no information, much less any statement under oath, regarding such membership may be demanded in the passport application (sec. 6).

2. The requirement that sufficient reasons for denial be given and the failure to mention security limitations might be interpreted to exclude the use of confidential information in any passport denial proceedings (sec. 9 (a) (2)).

3. Supporters of the Communist movement or persons dominated thereby, although not presently or recently members of the Communist Party, would be entitled to passport facilities (sec. 7 (b)).

4. Although the bill distinguishes between travel restraints and passport facilities, it is not clear by what means travel restraints are to be implemented other than by the

use of the passport power which may not be effective to prevent travel (secs. 7, 8, 9, 10).

5. A literal interpretation of the bill's references to citizens rather than nationals (secs. 3 (a) and 5) would exclude certain nationals who are not citizens (e. g., Samoans). The bill was probably intended to entitle all nationals to passports.

6. The language of section 6 would seem to require that the Department establish a passport applicant's American citizenship, on the basis of such information as the applicant can provide. It would seem that the applicant should have the burden of establishing his United States nationality.

7. Although the bill authorizes, under certain emergency conditions (secs. 5, 8, 10), the limitation of a passport with respect to areas or countries for which it is valid, it would not provide authority for the limitation of a passport with respect to its duration and could be interpreted to exclude such authority. The effect would be to require, for example, the issuance of a passport valid for 3 years to a naturalized citizen who would lose his American citizenship because of extended residence abroad some time before the expiration of the 3-year period of validity.

8. As the bill provides for issuance only by the Department of State, executive officers of insular possessions and trust territories would have no authority, and the authority of Foreign Service officers abroad would be in doubt (sec. 3 (a)).

9. The bill provides 30-day time limits on both the issuance of passports (sec. 9 (a) (1)) and the rendering of decisions after hearings are concluded (sec. 9 (a) (3)) which are administratively impractical.

10. The bill does not provide for any renewal of the passport at the expiration of the 3-year initial period of validity (sec. 5). A new passport would have to be issued.

11. The bill does not provide for a fee for a passport application, and the indeterminate fee for issuance ("no higher than is necessary to defray the cost of issuance," sec. 5) would be difficult to compute, always subject to change and possibly an odd amount.

12. While it seems clear that some existing statutes would be repealed or amended by enactment of the bill, the bill does not contain the usual provision referring to statutes repealed or amended thereby.

COMMENTS ON OTHER PROVISIONS OF THE HENNINGS BILL

1. The provision relating to diplomatic passports (sec. 106) would appear to exceed legislative power since accreditation of Presidential representatives to foreign governments is a matter reserved to the executive branch.

2. The bill would make it unlawful for an American to travel outside the Western Hemisphere without a passport, even in peacetime and in the absence of an emergency (sec. 405). This would be an extension of the present emergency legislation and would take away the Executive power to make exceptions which is permitted under present law.

3. The bill contains no provision expressly authorizing the limitation of the normal passport with respect to duration and areas for which it is valid. Section 105 authorizes such limitations only for passports issued by way of exception to persons in categories otherwise barred from possession of passports under section 104. Section 105 could therefore be interpreted to exclude the authority to limit the duration of any other passports and could require the issuance of a passport valid for 3 years to a naturalized citizen who would lose his nationality by extended residence abroad some time before the expiration of the 3-year period.

4. The references in sections 108 and 302 to the right of any person to request a hearing before the Passport Review Board and the reference in section 303 to the right of appeal to the judiciary would give the Board and the courts jurisdiction to examine cases of denials on grounds of lack of United States nationality. There are already in existence other effective remedies for testing citizenship.

5. The bill would provide no express delegation of authority for administrative regulations in time of peace (sec. 101; cf. secs. 404, 405).

6. The bill would exclude the Secretary of State from the administrative review procedure (secs. 301, 303).

7. The bill (sec. 102) would remove the Director of the Passport Office from the chain of command established by section 104 (c) of the Immigration and Nationality Act and by departmental organization.

8. The bill provides 60-day time limits on both the issuance of passports (sec. 108) and the holding of hearings before the Passport Review Board (sec. 302) which are administratively impractical.

COMPARATIVE ANALYSIS

I. INDIVIDUAL AND GENERAL PASSPORT RESTRICTIONS

A. Under the Fulbright bill an individual citizen may be restrained in his travel and denied a passport only if (sec. 7)—

(1) there is good reason to believe that the citizen's travel or activities abroad will violate United States laws; or

(2) he is a member of the Communist Party or of an organization which has been finally ordered by the Subversive Activities Control Board to register, or he has recently terminated such membership under circumstances indicating that he continues to act in furtherance of the interests and under the discipline of the Communist Party or such organization; or

(3) he has not satisfied his debt to the Government arising out of an advance of public funds to pay for his transportation back to the United States on a previous occasion.

The travel of all citizens may be restrained and passports limited in validity with respect to certain places or countries, provided the President declares that travel there should be restricted in the national interest (secs. 8 and 10). It is not clear from the bill (sec. 8 (a) and sec. 10) whether a Presidential declaration is necessary as to places where armed hostilities are in progress or as to countries with which the United States is at war. In any event, the President's declaration must be reported, with reasons therefor, to the appropriate Congressional committees, and is valid only for 1 year unless extended by statute (sec. 10).

As the language covering both individual and general restrictions is permissive rather than mandatory (secs. 7 and 8), exceptions may apparently be made in the Secretary's discretion. Exceptions from general restrictions for individuals and for classes, such as professional news gatherers and doctors on medical missions, would be expressly authorized (sec. 8 (b)).

B. Under the Hennings bill, an individual national may be denied a passport if (sec. 104)—

(1) he is a member of the Communist Party or any organization which is registered or as to which there is in effect a final order of the Subversive Activities Control Board requiring registration with the Attorney General of the United States as a Communist-action, Communist-front or Communist-infiltrated organization, or who has terminated such membership under such circumstances as to warrant the conclusion that he continues to act in furtherance of the interests of the Communist movement or who, regardless of the formal state of his affiliation with the Communist Party, engages in activities which support the Communist movement under such circumstances as to show that he has engaged in such activities as a result of direction, domination, or control exercised over him by the Communist movement;

(2) he has been formally charged with a felony or with treason;

(3) he is a convicted criminal at liberty on bail pending appeal from his conviction.

As to passport restrictions of a general nature, the Secretary of State may designate a foreign country as unsafe for travel, and the country's name shall be stamped on passports, if the lack of diplomatic relations or disturbances in the foreign country prevent the United States from extending normal protection to citizens traveling there (sec. 401).

In time of war or when United States Armed Forces are engaged in hostilities, the President may impose more stringent travel restrictions by regulations (secs. 403, 404).

The Secretary of State would have discretion to issue a passport to an individual national otherwise barred provided that issuance is determined to be in the national interest (sec. 105).

Holders of passports which list countries declared "unsafe for travel" would nevertheless be entitled to visit those unsafe countries by filing a waiver of United States protection (sec. 402).

C. The present practice of the Department of State is governed by the regulations of the Secretary of State (22 C. F. R. secs. 51.135 and 51.136), the text of which is set forth in the attached circular.

II. CRIMINAL PROVISIONS

A. Fulbright bill:

(1) Nonemergency: No penalties except those presently in force.

(2) War or national emergency: No penalty except those presently in force. As the bill does not provide for repeal of the present travel control statute, the penalties provided in the latter might remain in force.

B. Hennings bill:

(1) Nonemergency:

(a) The bill does not purport to repeal present penalties for misuse of passport or false statement on application.

(b) Travel to Eastern Hemisphere without passport: 1 year and/or $1,000.

(c) Entry into an area designated "unsafe for travel" without having waived protection: 1 year and/or $1,000.

(2) When United States at war or engaged in combat:

Travel in violation of Presidential regulations: 5 years and/or $5,000 (felony).

No provision for statute of limitations for new penalties under (1) (b) and (c), and under (2).

C. Present laws:

(1) Nonemergency (18 U. S. C. 1541–1544):

Five years and/or $2,000 for:

(a) false statement in application for passport and use thereof;

(b) use of conditional passport after condition occurs;

(c) misuse.

Ten-year statute of limitations.

(2) War or national emergency (8 U. S. C. 1185):

Five years and/or $5,000 for offenses similar to those under (1).

III. ADMINISTRATIVE REVIEW

A. Fulbright bill:

(1) Nonemergency: None; Department must bring suit within 30 days after denial.

(2) War or national emergency:

(a) Person may appeal Department's denial to a "board of passport appeals" within the Department under Presidential or departmental rules of procedure. Person has rights of notice, hearing and counsel. Notice must contain sufficient reasons.

(b) No time limit on person's right to request hearing.

(c) Time limit of 30 days on Department to render decision after close of hearing.

(d) Jurisdiction of board:

(i) Geographic grounds of general applicability as well as personal grounds.

(ii) Doubtful as to citizenship questions.

B. Hennings bill:

(1) Nonemergency denials:

Person has 60 days after denial either in Department or in field, to request hearing before Passport Review Board (five departmental officers chosen by Secretary and responsible to him). Reasons for denial must be stated as specifically as national security permits. Board makes rules, to be approved by Secretary. Person has right to notice, hearing, personal appearance, counsel, to offer evidence, to cross-examine witnesses, and to examine all evidence consistent with national security. Hearing must be held in 30 days unless person waives the time limit. Board has jurisdiction over all denial grounds, including citizenship. Board's ruling final administrative action.

(2) United States involvement in war or hostilities: Pesident may change foregoing by regulation.

C. Present practice:

The Department's practice is governed by regulations of the Secretary of State and the rules of the Board of Passport Appeals (22 C. F. R. secs. 51.137–51.141, secs. 51.151–51.170), the text of which is set forth in the attached circulars. In passport denial cases, the Secretary of State makes factual findings sufficient to bring the applicant within a particular provision of the regulations limiting passport issuance. Moreover, if the Secretary's findings are based (in whole or in material part) on secret information not disclosed to the applicant, the applicant is informed whether the reasons for non-disclosure pertain to internal security or to the conduct of foreign affairs and, with as much particularity as in the Secretary's judgment the circumstances permit, the nature of the reasons for nondisclosure of such information.

IV. JUDICIAL REVIEW

A. Fulbright:

(1) Nonemergency situation: Department must sue in district court at citizen's residence within 30 days after denial to establish reasonable cause for the denial.

(2) War or emergency situation: Citizen can sue Secretary in district court for his residence, appealing from Department's final decision after hearing before board of passport appeals. No time limit on bringing of such action.

B. Hennings:

(1) Nonemergency situation: Person may appeal decision of Passport Review Board (not the Secretary) to District Court for District of Columbia. No time limit.

(2) War or hostilities situation: Presidential regulation would supersede any contrary provisions of the bill.

C. Present law: Citizens denied passport facilities must be accorded due process, both substantive (reasonable grounds) and procedural (due notice and opportunity to be heard).

V. OPERATIONS

A. Application:

(1) Present:

(a) Any question authorized by regulation.

(b) Application must be under oath or affirmation.

(2) Fulbright:

(a) Only citizenship data.

(b) No verification requirement.

(3) Hennings:

(a) Any question authorized by regulation.

(b) Application must be verified.

B. Issuance:

(1) Present:

(a) No time limit on issuance after receipt of completed application; present average is 4½ to 5 days.

(b) Secretary issues in United States; Foreign Service officers issue in foreign countries; executive officers in insular possessions and trust territories.

(c) Family group passports are issued upon request, including unmarried children under 21.

(2) Fulbright:

(a) Must be issued (or denied) within 30 days after application.

(b) Only Department may issue.

(c) Family group passports, including children under 16, may be issued on request of head of family.

(d) Group passports cannot be required.

(3) Hennings:

(a) Must be issued (or denied) within 60 days after receipt of completed application.

(b) Can be issued by Secretary, Foreign Service officers, and executive officers of insular possessions and trust territories.

C. To whom issued:

(1) Present: nationals.

(2) Fulbright: citizens.

(3) Hennings: nationals.

D. Fees:

(1) Present:

(a) Application: $1; no exceptions.

(b) Issuance: $9; certain exceptions.

(c) Renewal: $5.

(2) Fulbright:

(a) Issuance: no higher than cost of issuance.

(3) Hennings:

(a) Application: $2; no exceptions.

(b) Issuance: $9; certain exceptions.

(c) Renewal: $5.

E. Validity:

(1) Present:

(a) Two years, renewable for 2 years.

(b) May be limited in duration.

(2) Fulbright:

(a) Three years, not renewable.

(b) May not be limited in duration.

(3) Hennings:

(a) Three years, renewable for 2 years.

(b) May be limited in duration only if issued as an exception in national interest to Communist or criminal.

SUPPLEMENT TO PASSPORT REGULATIONS—TITLE 22, FOREIGN RELATIONS—CHAPTER I, DEPARTMENT OF STATE—PART 51, PASSPORTS—SUBPART B, REGULATIONS OF THE SECRETARY OF STATE

(Regulations of August 28, 1952, as amended on January 10, 1956)

51.135. Limitation on issuance of passports to persons supporting Communist movement: In order to promote the national interest by assuring that persons who support the world Communist movement of which the Communist Party is an integral unit may not, through use of United States passports, further the purposes of that movement, no passport, except one limited for direct and immediate return to the United States, shall be issued to:

(a) Persons who are members of the Communist Party or who have recently terminated such membership under such circumstances as to warrant the conclusion—not otherwise rebutted by the evidence—that they continue to act in furtherance of the interests and under the discipline of the Communist Party;

(b) Persons, regardless of the formal state of their affiliation with the Communist Party, who engage in activities which support the Communist movement under such circumstances as to warrant the conclusion—not otherwise rebutted by the evidence—that they have engaged in such activities as a result of direction, domination, or control exercised over them by the Communist movement.

(c) Persons, regardless of the formal state of their affiliation with the Communist Party, as to whom there is reason to believe, on the balance of all the evidence, that they are going abroad to engage in activities which will advance the Communist movement for the purpose, knowingly and willfully of advancing that movement.

51.136. Limitations on issuance of passports to certain other persons: In order to promote and safeguard the interests of the United States, passport facilities, except for direct and immediate return to the United States, will be refused to a person when it appears to the satisfaction of the Secretary of State that the person's activities abroad would: (1) Violate the laws of the United States; (2) be prejudicial to the orderly conduct of foreign relations; or (3) otherwise be prejudicial to the interests of the United States.

51.137. Notification to person whose passport application is tentatively disapproved: A person whose passport application is tentatively disapproved under the provisions of 51.135 or 51.136 will be notified in writing of the tentative refusal, and of the reasons on which it is based, as specifically as in the judgment of the Department of State security considerations permit. He shall be entitled, upon request, and before such refusal becomes final, to present his case and all relevant information informally to the Passport Division. He shall be entitled to appear in person before a hearing officer of the Passport Division, and to be represented by counsel. He will, upon request, confirm his oral statements, in an affidavit for the record. After the applicant has presented his case, the Passport Division will review the record, and after consultation with other interested offices, advise the applicant of the decision. If the decision is adverse, such advice will be in writing and shall state the reasons on which the decision is based as specifically as within the judgment of the Department of State security limitations permit. Such advice shall also inform the applicant of his right to appeal under 51.138.

51.138. Appeal by passport applicant: In the event of a decision adverse to the applicant, he shall be entitled to appeal his case to the Board of Passport Appeals provided for in 51.139.

51.139. Creation and functions of Board of Passport Appeals: There is hereby established within the Department of State a Board of Passport Appeals, hereinafter referred to as the Board, composed of not less than three officers of the Department to be designated by the Secretary of State. The Board shall act on all appeals under 51.138. The Board shall adopt and make public its own rules of procedures, to be approved by the Secretary, which shall provide that its duties in any case may be performed by a panel of not less than three members acting by majority determination. The rules shall accord applicant the right to a hearing and to be represented by counsel, and shall accord applicant and each witness the right to inspect the transcript of his own testimony.

51.140. Duty of Board to advise Secretary of State on action for disposition of appealed cases: It shall be the duty of the Board, on all the evidence, to advise the Secretary of the action it finds necessary and proper to the disposition of cases appealed to it, and to this end the Board may first call for clarification of the record, further investigation, or other action consistent with its duties.

51.141. Bases for findings of fact by Board: (a) In making or reviewing findings of fact, the Board, and all others with responsibility for so doing under 51.135–51.143, shall be convinced by a preponderance of the evidence, as would a trial court in a civil case.

(b) Consistent and prolonged adherence to the Communist Party line on a variety of issues and through shifts and changes of that line will suffice, prima facie, to support a finding under 51.135 (b).

51.142. Oath or affirmation by applicant as to membership in Communist Party: At any stage of the proceedings in the Passport Di-

vision or before the Board, if it is deemed necessary, the applicant may be required, as a part of his application, to subscribe, under oath or affirmation, to a statement with respect to present or past membership in the Communist Party. If applicant states that he is a Communist, refusal of a passport in his case will be without further proceedings.

51.143. Applicability of sections 51.137–51.142: Except for action taken by reason of noncitizenship or geographical limitations of general applicability necessitated by foreign policy considerations, the provisions of 51.137–51.142 shall apply in any case where the person affected takes issue with the action of the Secretary in granting, refusing, restricting, withdrawing, canceling, revoking, extending, renewing, or in any other fashion or degree affecting the ability of such person to receive or use a passport.

CODE OF FEDERAL REGULATIONS—TITLE 22, FOREIGN RELATIONS—CHAPTER I, DEPARTMENT OF STATE—PART 51, PASSPORTS—SUBPART B, REGULATIONS OF THE SECRETARY OF STATE

RULES OF THE BOARD OF PASSPORT APPEALS [1]

Pursuant to the authority vested in the Board of Passport Appeals by the Regulations of the Secretary of State issued on August 28, 1952 (17 Federal Register 8013; 22 Code of Federal Regulations 51.139), and pursuant to the authority vested in the Secretary of State by paragraph 126 of Executive Order No. 7856, issued on March 31, 1948 (3 Federal Register 681; 22 Code of Federal Regulations 51.77), under authority of section 1 of the act of Congress approved July 3, 1926 (44 Stat. 887; 22 U. S. C. 211 (a)), the regulations issued on March 31, 1938 (departmental order 749) as amended (22 Code of Federal Regulations 51.101 through 51.143) are hereby further amended by the addition of the following Rules of the Board of Passport Appeals as adopted by the Board, and approved by the Secretary for incorporation as sections 51.151 through 51.170 of subpart B or part 51 of 22 Code of Federal Regulations:

Authority: section 51.151 through section 51.170 issued under section 1, 44 Statutes 887, title 22, United States Code section 211 (a).

Section 51.151. Organization of Board: The Secretary of State shall appoint a Board of Passport Appeals consisting of three or more members, one of whom shall be designated by the Secretary as Chairman. The Chairman shall assure that there is assigned to hear the appeal of any applicant a panel of not less than three members including himself or his designee as presiding officer, which number shall constitute a quorum.

Section 51.152. Decisions of the Board: Decisions shall be by majority vote. Voting may be either in open or closed session on any question except recommendations under section 51.140, which shall be in closed session. Decisions under section 51.140 shall be in writing and shall be signed by all participating members of the Board.

Section 51.153. Counsel to the Board: A counsel, to be designated by the Secretary of State, shall be responsible to the Board for the scheduling and presentation of cases, aid in legal and procedural matters, information to the applicant as to his procedural rights before the Board, maintenance of records and such other duties as the Board or the Chairman, on its behalf, may determine.

Section 51.154. Examiner: The Board may, within its discretion, appoint an examiner in any case, who may, with respect to such case, be vested with any or all authority vested in the Board or its presiding officer, subject to review and final decision by the Board, but, an applicant shall not be denied an opportunity for a hearing before the Board unless he expressly waives it.

Section 51.155. Chairman: The Chairman, or his designee, shall preside at all hearings of the Board, and shall be empowered in all respects to regulate the course of the hearings and pass upon all issues relating thereto. The Chairman, or his designee, shall be empowered to administer oaths and affirmations.

Section 51.156. Prior administrative remedies: It is required that prior to petitioning for an appeal, an applicant shall (1) exhaust the administrative remedies available in the Passport Office, as set out in section 51.137, and (2) comply with the provisions of section 51.142, as a part of his application, if deemed necessary by the Passport Office.

Section 51.157. Petition: An applicant desiring to take an appeal shall, within thirty calendar days after receipt of the advice of adverse decision by the Passport Office file with the Board a written petition under oath or affirmation which shall, in plain and concise language, refute or explain the reasons stated by the Passport Office for its decision.

Section 51.158. Delivery of papers: Petitions or other papers for the attention of the Board may be delivered personally, by registered mail, or by leaving a copy at the offices of the Board at the address to be stated in the advice of adverse action furnished applicant by the Passport Office.

Section 51.159. Notice of hearing: Applicant shall receive not less than 5 calendar days' notice in writing of the scheduled date and place of hearing which shall be set for a time as soon as possible after receipt by the Board of applicant's petition.

Section 51.160. Appearance: Any party to any proceedings before the Board may appear in person, or by or with his attorney, who must possess the requisite qualifications, as hereinafter set forth, to practice before the Board.

Section 51.161. Applicant's attorney: (a) Attorneys at law in good standing who are admitted to practice before the Federal courts or before the courts of any State or Territory of the United States may practice before the Board.

(b) No officer or employee of the Department of State whose official duties have, in fact, included participation in the investigation, preparation, presentation, decision or review of cases of the class within the competence of the Board of Passport Appeals shall, within 2 years after the termination of such duties appear as attorney in behalf of an applicant in any case of such nature, nor shall any one appear as such attorney in a case of such class if in the course of prior Government service he has dealt with any aspects of the applicant's activities relevant to a determination of that case

Section 51.162. Supplementary information to applicant: The purpose of the hearing is to permit applicant to present all information relevant and material to the decision in his case. Applicant may, at the time of filing his petition, address a request in writing to the Board for such additional information or explanation as may be necessary to the preparation of his case. In conformity with the relevant laws and regulations, the Board shall pass promptly and finally upon all such requests and shall advise applicant of its decision. The Board shall take whatever action it deems necessary to insure the applicant of a full and fair consideration of his case.

Section 51.163. Hearings: The Passport file and any other pertinent Government files shall be considered as part of the evidence in each case without testimony or other formality as to admissibility. Such files may not be examined by the applicant, except the applicant may examine his application or any paper which he has submitted in connection with his application or appeal. The applicant may appear and testify in his own behalf, be represented by counsel subject to the provisions of section 51.161, present witnesses and offer other evidence in his own behalf. The applicant and all witnesses may be cross-examined by any member of the Board or its counsel. If any witness whom the applicant wishes to call is unable to appear personally, the Board may, in its discretion, accept an affidavit by him or order evidence to be taken by deposition. Such depositions may be taken before any person designated by the Board and such designee is hereby authorized to administer oaths or affirmations for the purpose of the depositions. The Board shall conduct the hearing proceedings in such manner as to protect from disclosure information affecting the national security or tending to disclose or compromise investigative sources or methods.

Section 51.164. Admissibility: The Board and the applicant may introduce such evidence as the Board deems proper. Formal rules of evidence shall not apply, but reasonable restrictions shall be imposed as to the relevancy, competency, and materiality of evidence presented to the Passport Office's stated reasons for its decision and/or to the application of section 51.135 or section 51.136 to applicant's case.

Section 51.165. Argumentation: All argumentation shall be directed to the application of the passport regulations to the facts of the particular case The Board will permit no oral argument or motions relative to the legality or propriety of the hearing or other procedures of the Board. Submission of such argument or motions will be confined to the filing of written briefs, objections, or motions to be made a part of the record. The Board will not undertake to consider any such motion or contention.

Section 51.166. Privacy of hearings: Hearings shall be private. There shall be present at the hearings only the members of the Board, Board's counsel, official stenographers, departmental employees concerned, the applicant, his counsel, and the witnesses. Witnesses shall be present at the hearing only while actually giving testimony.

Section 51.167. Misbehavior before Board: If, in the course of a hearing before the Board, an applicant or attorney is guilty of misbehavior, he may be excluded from further participation in the hearing. In addition, he may be excluded from participation in any other case before the Board.

Section 51.168. Transcript of hearings: A complete verbatim stenographic transcript shall be made of hearings by qualified reporters, and the transcript shall constitute a permanent part of the record. Upon request, the applicant and each witness shall have the right to inspect the transcript of his own testimony.

Section 51.169. Notice of decision: The Board shall communicate the action recommended under section 51.140 on all cases appealed to it, to the Secretary of State. The

[1] Published in 19 Federal Register 161, January 9, 1954.

decision of the Secretary of State shall be notified in writing to the applicant. Such notice shall be given the applicant as promptly as possible after his hearing before the Board.

Section 51.170. Probative value of evidence: In determining whether there is a preponderance of evidence supporting the denial of a passport the Board shall consider the entire record, including the transcript of the hearing and such confidential information as it may have in its possession. The Board shall take into consideration the inability of the applicant to meet information of which he has not been advised, specifically or in detail, or to attack the credibility of confidential informants.

Adopted by the Board of Passport Appeals, December 30, 1953.

THRUSTON B. MORTON,
Chairman, Board of Passport Appeals.
JOHN FOSTER DULLES,
Secretary of State.

Date: January 4, 1954.

EDUCATION INSIDE THE SOVIET UNION

Mr. WILEY. Mr. President, I have on numerous occasions expressed before this body the importance of education to the American way of life, and the necessity of dedicating ourselves to education so that every child will have the opportunity of attaining the highest knowledge and skill of which he is capable and of making his ability available to the advancement and defense of our country.

Our schools are designed to prepare youth for our way of life. We have recently begun to wonder what the Russian schools are doing. Now, we have an unbiased answer—one prepared by the distinguished members of an American survey team of education inside the Soviet Union. The initial and preliminary report was today presented by Dr. Lawrence G. Derthick, United States Commissioner of Education, before the National Press Club.

Mr. President, I ask unanimous consent that there be printed in the RECORD at this point a copy of Commissioner Derthick's address entitled "The Russian Race for Knowledge," together with a list of the members of the official United States Office of Education team to study education in the U. S. S. R., and the original announcement of the initiation of this survey.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

THE RUSSIAN RACE FOR KNOWLEDGE

(By Lawrence G. Derthick, United States Commissioner of Education, Department of Health, Education, and Welfare)

President Horner, members of the Press Club, and guests, we have just returned from a month-long study of the schools in the U. S. S. R.

What we have seen has amazed us in one outstanding particular: we were simply not prepared for the degree to which the U. S. S. R., as a nation, is committed to education as a means of national advancement. Everywhere we went we saw indication after indication of what we could only conclude amounted to a total commitment to education. Our major reaction therefore is one of astonishment—and I choose the word carefully—at the extent to which this seems to have been accomplished. For what it is worth, 10 American educators came away sobered by what they saw.

Here are some of the evidences of this total Soviet commitment to education:

Classes are of reasonable size.

Teachers are chosen on a highly selective basis—we saw no indication of any shortage.

Foreign languages are widely taught.

The educational process extends after school hours and during the summer under professional direction.

Teachers and principals have an abundance of staff assistance: curriculum experts, doctors, nurses, laboratory assistants, and so forth.

School money is available to do the job. We were told repeatedly, "A child can be born healthy but he cannot be born educated."

Responsibility for the conduct and achievement of their children rests with the parents, who participate regularly in school affairs.

These factors insure vigor and quality in any school system, whether in a communistic society or a democracy.

This, of course, is a preliminary report. Our team of 10 has covered so much ground in such a short time we have not yet completed the detailed analysis necessary for careful judgments in a number of areas. As soon as possible we plan to publish a comprehensive report—part of the continuing study of Russian education to which many other groups will contribute.

Our hosts were most cooperative. Minister of Education Afanasenko, at our very first meeting, smilingly referred to the closed curtains in his office, saying, "This is only for the benefit of the movie cameras. You will find no Iron Curtain about our schools."

This prediction was confirmed. We were impressed by the apparent interest of the Russians in the cultural exchange with the United States. In theaters and on the streets, as well as in the schools and on campuses, we were greeted with great interest, reflecting Russian curiosity about things American. In Leningrad, for example, we saw lines that, we were told, had waited all night long to buy tickets to the Philadelphia Symphony.

Despite our limited time we were anxious to obtain a cross section view and asked for a schedule that turned out to be exceedingly strenuous, even with a chartered airplane and night travel of nearly 7,000 miles around the Soviet Union, in addition to our studies in the Moscow area which itself involves a school system comparable in size and complexity to that of Chicago, Ill.

We were in some areas seldom, if ever, visited by Americans since the war. We visited in the Tartar Republic at Kazan; Sverdlovsk, the Pittsburgh of Russia, in the Urals and Siberia; Alma Ata and Tashkent in Kazakstan; and Nzbekistan down close to the borders of China and Afghanistan. Then we traveled to Sochi on the Black Sea, to Minsk in Byelorussia, to Leningrad and back to Moscow for the final work. We saw schools in operation from the nursery through the university and their extensive program of complementary educational activities. The delegation visited two collective farms, saw industrial operations and toured museums and galleries as a part of the total U. S. S. R. educational endeavor.

In Leningrad we saw a typical example of the Soviet drive for knowledge. Here 70,000 men and women in full-time jobs are on double shifts—but the second shift is spent as full-time students in regularly established schools operating day and night to fit their jobs. From this and other observations it seems clear that for hundreds of thousands of working youth and adults education has not ended; not only do they have an opportunity to finish secondary school, but also a great proportion continue right on through the higher institutions of learning. And then other tens of thousands take the populas correspondence courses.

As I mentioned earlier, we saw no evidence of any teacher shortage. Teacher workloads and other working conditions are advantageous. Teacher prestige is high; salaries are at the levels of those of doctors and engineers, in fact, a fully trained doctor and nurse are regular members of each school staff; only the best are chosen to teach—1 out of 6 who apply.

We saw scientific research establishments with trained staff running into the thousands, and with excellent plants and equipment. We saw, of course, the skyscraper university in Moscow with its lavish appointments and its ultramodern equipment. We noted the expansion of universities everywhere, and at the other end of the scale we were impressed by the quantity and number of child-care centers and kindergartens.

The importance of science in Soviet education is a matter which is unquestioned. Biology, chemistry, physics, and astronomy are required of every pupil regardless of his individual interests or aspirations.

The Minister of Education for the largest Soviet Republic told us that plans were under way to introduce greater variety into their curriculum. The emphasis upon a uniform academic curriculum weighted heavily with mathematics and science is being modified, somewhat in favor of polytechnic courses and industrial practice. The contemplated program will add an 11th year, and decrease slightly the number of lessons in mathematics, science, and the humanities. All pupils in grades 9, 10 and 11 will be required to spend 3 days in school and 3 days in agricultural and industrial work experience outside the school.

Incidentally, we were interested to note that driver training is being included as a part of the practical course work in the secondary school, and this in a country where one must wait at least a year for his automobile.

The avowed goal of the planned changes is to increase the numbers of skilled workers immediately upon graduation, also to insure the conditioning of every child to production work.

We witnessed an education-centered economy—planned, and developing in stages, with the emphasis upon the collective rather than the individual needs of the people. While the Soviet system imposes uniformity, the Soviet education adjusts itself to meet changing conditions. Developmental programs are encouraged in limited numbers by the Ministry of Education as part of the process in a planned economy and a planned culture.

Our delegation was critical of the stereotyped concepts of culture and esthetics which we encountered and the lack of emphasis upon indiyidual expression and creativeness. When we probed for explanations we were told, "The Soviet people believe in reality, science and the laws of nature."

At every turn in our travels we were struck by the emphasis and attention paid to the study of languages in the schools. This is one of the areas of experimentation. For example, during the school year just completed, 17 schools began foreign language instruction in the second grade. Eight of these schools are referred to as English schools, 7 as German, and 2 as French. Instruction in literature, history, and geography classes is also carried on in the second language beginning in the fifth grade.

The stated aim of these experimental schools is "to have pupils graduating from the secondary school who will have a free command of the language, and who will not have to go to special foreign-language institutes." It may also be of interest to know that approximately 45 percent of the

10-year school pupils are studying English, 35 percent German, and 20 percent French. We were also informed by the Minister of Education that efforts are being made to increase the emphasis on conversational competence.

Direct comparisons of the quality of education in two countries as different in goals and aspirations as the United States and the Soviet Union are difficult, if not impossible. Soviet teaching methods and content are designed to insure that every pupil passes. In an attempt to accomplish this, extra teaching services are provided with individual tutoring, incentives and awards, and restriction of student privileges.

Examination procedures are confined to those elements in which the pupils have been repeatedly drilled. Little, if any, attention is given questions involving the application of knowledge to new situations. Teachers evaluate each individual lesson and daily recitation. Low marks or examinations or lessons are usually considered a reflection upon the teacher rather than the pupil.

Clearly, much more study and research are necessary before a fair evaluation could be made of the effectiveness of these procedures. The best products of Soviet schools are undoubtedly very good. However, we are inclined to think that the enormous effort made to advance slow learners in highly academic subjects tends to restrict opportunities for many able students.

Everywhere in Russia there were evidences not only of passionate love of country, but a burning desire to surpass the United States in education, in production, in standard of living, in world trade—and in athletics. The slogan we saw most in posters, films, and everywhere was "Reach and Overreach America." We did not find among children and teachers any evidence that this fierce sense of competition was other than of peaceful intent. In education the spirit is a race for knowledge, for supremacy in a way of life and in world leadership. The Russian attitude is, as one Soviet official told us, "We believe in a planned society, you in individual initiative. Let time tell." They are convinced that time is on their side and they can win world supremacy through education and hard work.

This conviction is basic to all of their efforts and all of their plans for the future. Education is paramount. It is a kind of grand passion—this conviction that children, schools, and hard work will win them their place in the sun, and on the moon.

We are today in competition with a nation of vast resources, a people of seemingly unbounded enthusiasm for self-development, and fired with conviction that future supremacy belongs to those with the best-trained minds, those who will work hard and sacrifice.

The American people look to their system of education for infinitely more than the means of political and economic advancement. Our schools must always preserve the intangible values of our free society.

Speaking for 10 American educators who have had a unique opportunity to study Soviet schools, let me say that our confidence in the educational system of the United States, as reflected in our better schools, has been strengthened by this experience. On the other hand, our concern for our weaker and neglected schools has been deepened. We come back convinced that we cannot, as a nation, afford to disregard the challenge imposed upon us by the Russian race for knowledge.

MEMBERS OF OFFICIAL UNITED STATES OFFICE OF EDUCATION TEAM TO STUDY EDUCATION IN THE U. S. S. R.

Dr. Lawrence G. Derthick, United States Commissioner of Education: In addition to heading the United States team, Dr. Derthick gave special attention to the Soviet administrative structure at all levels, including the professional preparation of supervisory and administrative personnel.

Dr. Lane C. Ash, Assistant Director, Division of Vocational Education, United States Office of Education: Dr. Ash was concerned with vocational education in the 10-year schools in the U. S. S. R., the work of vocational schools in industry, and the training of teachers for vocational schools.

Dr. George Z. F. Bereday, associate professor of comparative education, Teachers College, Columbia University: Dr. Bereday was interested in the philosophy of Soviet education, including education within the general frame of reference of comparative education.

Dr. Henry Chauncey, president, Educational Testing Service, Princeton, N. J.: Dr. Chauncey's area of interest in the U. S. S. R. was guidance, tests, and measurements, including the professional preparation of guidance personnel and the methods of testing and evaluating abilities and achievements of students under the Soviet system.

Dr. Arthur J. Holden, commissioner of education, State of Vermont: Dr. Holden's primary interest in the U. S. S. R. was with higher education, including the education of college teachers.

Dr. Herold C. Hunt, Eliot professor of education, Harvard University: Dr. Hunt studied the educational procedures at all levels in the U. S. S. R. and observed the administrative structure of the educational system there.

Dr. Harry C. Kelly, Assistant Director for Scientific Personnel and Education, National Science Foundation: Dr. Kelly observed science education throughout the Soviet educational system, including the preparation of science teachers.

Dr. John R. Ludington, Assistant Director of Instruction and Chief of Secondary Education, United States Office of Education: Dr. Ludington's primary interests in the U. S. S. R. were the 10-year program, technical education, the education of teachers, special schools, and classroom techniques and facilities.

Dr. Helen K. Mackintosh, Chief Elementary Schools Section, United States Office of Education: Dr. Mackintosh, only woman member of the delegation, studied the after-school activities of the pioneer groups in arts, crafts, dramatics, and dancing, in addition to evaluating scholastic achievement.

Dr. John B. Whitelaw, Chief, Teacher Education, United States Office of Education: Dr. Whitelaw studied teacher education in the Soviet Union for all levels of teaching.

RELEASE OF UNITED STATES DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

A month-long survey of education inside the Soviet Union, the first Government-sponsored study of this kind, will be made by a team of 10 United States educators, the Department of Health, Education, and Welfare announced today.

The study team, headed by United States Commissioner of Education, Lawrence G. Derthick, will leave for the U. S. S. R. on Tuesday, May 6, and will return around June 10.

The survey has been made possible by the agreement of January 27, 1958, between the Governments of the United States and the Union of Soviet Socialist Republics on exchange of missions in cultural, technical, and educational fields.

Several technical and cultural missions have been exchanged, but this is the first time that an official group from America representing a cross-section of education will have visited the Soviet Union to observe various aspects of Soviet education.

A group of Soviet educators will make a similar study of education in the United States at a later date.

Commissioner Derthick said the project is in line with the Office of Education's responsibility to keep abreast of educational developments in other parts of the world.

In addition to Commissioner Derthick, the team will include:

Dr. Herold C. Hunt, Eliot professor of education, Harvard University, and former Under Secretary of Health, Education, and Welfare; Dr. Harry C. Kelly, Assistant Director for Scientific Personnel and Education, National Science Foundation; Dr. A. John Holden, Jr., State commissioner of education, Vermont; Dr. Henry Chauncey, president, Educational Testing Service; and Dr. George Z. F. Bereday, associate professor of education, Columbia University; and four members of the Office of Education staff, Dr. John R. Ludington, Chief, Secondary Schools Section; Dr. Lane C. Ash, Assistant Director, Division of Vocational Education; Dr. John B. Whitelaw, Chief Teacher Education Section; and Dr. Helen H. Mackintosh, Chief, Elementary Schools Section.

The American team will travel together inside the U. S. S. R. but will visit various schools and institutions in smaller groups. The educators will give major attention to the 10-year Soviet school system and technical and teacher education.

Plans for the visit were made by Oliver J. Caldwell, Assistant Commissioner for International Education, Office of Education. Dr. Caldwell returned April 22, from a 2-week tour of the U. S. S. R.

Mr. WILEY. Mr. President, this obviously unbiased report by a distinguished team of our own educators should make us pause. Not that we should change our own brand of education, for it is splendidly suited to our own individualistic way of life. But the decision of the U. S. S. R. to commit so much energy and money to education for communism there, should make us rededicate our efforts—in every town, city, and State and throughout the United States, to make each one of our schools, colleges, and universities the best possible institution of learning of which we are capable.

I suggest to those who have the time and are interested in knowing the facts about how the Russians are progressing that they read this report.

AMERICA'S CONTRIBUTION TO MEDICAL SCIENCE

Mr. BRIDGES. Mr. President, during the debates this week on the Foreign Aid bill I was struck by the value of a fresh idea advanced on both sides of the Chamber—by the Senator from Wisconsin [Mr. WILEY] on the Republican side and by the Senator from Minnesota [Mr. HUMPHREY] on the Democratic side. The idea is that there is a psychological value in our many-sided contests with international communism in the fact that the most effective medicines of the modern world are medicines made in the United States—even if bigger sputniks are made in Russia.

As these colleagues have pointed out, we are competing for the respect and admiration—not gratitude, but respect and admiration—of the common people of Asia, Africa and Latin America. What the common people of underdeveloped areas respect and admire, irrespective of what some of their power-hungry leaders respect and admire, is skill in science to bring them peace and light rather than turbulence and death.

We are in this contest for admiration of competitive skills in modern science whether we want to be or not. Skill in science is now the measure to underdeveloped peoples of their respect and admiration for so-called developed nations. Certainly the mass of the common people can and will respect the science of those who use their scientific ability to bring life and peace rather than destruction and death.

Fortunately, this field of modern medicine and pharmaceutical magic is the one field in which the United States, incontestably, is ahead—not only of the Communist nations, but also of every other nation. This lead is particularly marked in the drugs for elimination of the epidemic diseases that ravaged mankind in underdeveloped countries. The diseases like malaria, which we have expressly undertaken to eradicate in our foreign aid and health programs. In this particular field, therefore, it seems self-evident that we should make the most of what we make in America.

We can, with imagination and ad hoc application of common sense, make it clear to the millions of recipients of medicines that the magic of relief comes not only from American generosity but also from American scientific technique and superior medical skill. That message will be more widely distributed in more useful places than any propaganda message we can utter and will do more than the Voice of America to bring us, among millions in the underdeveloped lands, a respect and admiration for ability that will last longer than gratitude.

It is important that in receiving this gift of health and life, both with American funds, that the recipient regard this gift not merely as a symbol of a fortunate, rich man's generosity which may only end in envy. It is important rather that they should see it as the symbol of a nation of skillful scientists who can create the magic remedy as well as merely pay for it; the gift not of a fat, rich nation, but of a strong and able nation, scientifically competent beyond all others in the magic of medicine and the magic of life.

The administrative situation in the management of these health programs, particularly as they become involved in international cooperation, is so complicated that I have not thought it wise to suggest specific statutory direction to carry out these purposes. I hope it is clear to those who will administer the foreign aid and foreign health programs that this idea of making the most of what America makes in the psychological value of this field of magic drugs has caught the imagination of Congress as a way to win friends and influence people. We hope and expect that by regulation and administration it will be utilized to the fullest extent to get the most for the United States, as well as for the world, out of these health programs.

MURRAY-METCALF BILL FOR SCHOOL SUPPORT

Mr. NEUBERGER. Mr. President, one of the most persuasive statements that I yet have seen in behalf of the Murray-Metcalf bill, for Federal support of school construction and teachers' salaries, appeared in the May 24, 1958 issue of School and Society magazine. The author of this article is Dr. J. L. McCaskill, executive secretary of the Legislative Commission of the National Education Association, who is a thoroughly informed representative of our largest school organization. Dr. McCaskill sets forth cogently many of the reasons why I feel privileged to be a cosponsor of the Murray bill, S. 3311.

I ask unanimous consent that Dr. McCaskill's article, entitled "Federal Support, Not Federal Aid: The Murray-Metcalf Bill," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FEDERAL SUPPORT, NOT FEDERAL AID: THE MURRAY-METCALF BILL

(By J. L. McCaskill, executive secretary, NEA Legislative Commission, Washington, D. C.

On February 17, 1958, Representative LEE METCALF, Democrat, Montana, introduced H. R. 10763 "to authorize assistance to States and local communities in remedying the inadequacies in the number of their teachers and teacher salaries and the shortage in classrooms." The bill was referred to the Committee on Education and Labor. The same week, Senator JAMES E. MURRAY (Democrat, Montana) introduced S. 3311, a companion bill which was referred to the Senate Labor and Public Welfare Committee. Joining Senator MURRAY were 12 additional cosponsors: MIKE MANSFIELD (Democrat, Montana), PAT MCNAMARA (Democrat, Michigan), WARREN G. MAGNUSON (Democrat, Washington), JOHN S. COOPER (Republican, Kentucky), THOMAS C. HENNINGS, JR. (Democrat, Missouri), WAYNE MORSE (Democrat, Oregon), WILLIAM LANGER (Republican, North Dakota), RICHARD L. NEUBERGER (Democrat, Oregon), WILLIAM PROXMIRE (Democrat, Wisconsin), JOSEPH S. CLARK, JR. (Democrat, Pennsylvania), HUBERT H. HUMPHREY (Democrat, Minnesota), and HENRY M. JACKSON (Democrat, Washington).

The Murray-Metcalf bill represents a bold step toward the solution of an important crisis in American education. The bill closely reflects the legislative program of the National Education Association which has long called for the Federal Government to assume its proper responsibilities toward education and to provide adequate financial support to supplement the inadequate revenues provided by the property tax and State support.

For professional educators there is no need to elaborate on the evil consequences of the continuing shortage of classrooms, or the great number of underqualified teachers in American classrooms. It may be appropriate, however, to explain how the Murray-Metcalf bill could provide a significant stimulus toward the solution of these problems.

The twin bills call for substantial Federal funds: for fiscal 1958 they ask $25 for each school-age child, totaling approximately $1,100,000,000. In successive years this appropriation rises to $50 for 1959–60, $75 for 1960–61, ending on a plateau of $100 beginning in 1961–62. When multiplied by the school-age population, this means that the bill anticipates an annual expenditure of $4,500,000,000.

The Murray-Metcalf bill includes a prohibition against Federal interference in the schools, channels the funds through the United States Commissioner of Education, and allots them to the official State education agencies. Decisions whether the funds are to be spent for teacher salaries, for school construction or basic equipment, or how they are to be divided between these two broad areas are left to the State education agencies.

The bill also provides that the States and local communities shall maintain their support for school finance. To accomplish this, the Murray-Metcalf bill defines an effort index; States which fall below the national average will have their allocations reduced.

The national education effort index is derived by taking the total expenditures for the States from current funds and dividing them by the number of children in average daily attendance. Similarly, the State effort index will be calculated on the basis of the number of children in average daily attendance in public elementary and secondary schools, divided into the State expenditure from current funds. Deductions, if any, from State allocations shall be reallotted among the remaining States.

Section 6 of the bill deals with grants for teacher salaries. It calls for each State to certify to the United States Commissioner of Education through its State education agency that the salary allotment will be distributed among its public-school districts, to be used solely by such districts for teacher salaries and to be distributed so that three-fourths of the allotment will go to local districts on a flat grant basis determined by the number of teachers in the public-school districts of the State. The remaining one-fourth presumably will be distributed in any manner the State sees fit.

The portion of its total allocation of Federal funds which the State did not use for teachers' salaries would be available under sections 7 and 8 for school construction, including basic equipment, on a project-by-project basis. Each State would file a plan with the United States Office of Education indicating how it would allocate its construction allotment among local school districts. On certification of the State, Federal funds would be paid to a local district selected by the State to receive construction assistance. The State would have full discretion within the total Federal funds available to it for construction purposes to determine the Federal share in any given project.

The Murray-Metcalf bill breaks away from the pattern of previously introduced grant-in-aid bills for education. First of all, it is not conceived as a Federal-aid bill—a dole to the schools as if they were the objects of charity. Rather, it is an attempt to rectify the present imbalance of school support in which the Federal Government contributes only 4 cents out every dollar of revenue for public schools below college level.

Two other major differences are the use of a flat grant rather than an equalization formula for allocating the money to States and the omission of any requirement for State matching. Studies of Federal tax incidence (not collections) show that there is considerable inherent equalization in the comparison of revenue coming from the States with the allocations they would receive under the Murray-Metcalf bill. Since this bill is supposed to add a third layer of revenue for schools to the layers represented by State and local revenues, there is no need for matching. The effort index will help assure maintenance of State and local support at present levels. Experience with the 40-year-old Federal vocational program shows that the States and localities now spend more than $4 for each Federal dollar received even though they are only required to spend dollar for dollar. Thus, the fear that Federal funds will remove State and local incentive to spend for schools seems unfounded.

With official and public interest centered on specialized short-range programs directed toward the shortage of skilled manpower in the technical fields, advocacy of a general, long-range Federal educational program appears to be flying in the face of popular trends. No doubt, immediate results can and will come from programs concentrated on

higher education. But as NEA's first vice president, Dr. Ruth Stout, reminded the House Education and Labor Committee in March, "Our schools must meet the need for increased expenditures for buildings, teachers, and equipment if they are to educate properly the young people that should benefit from a scholarship or fellowship program."

THE SECRET SERVICE

Mr. PAYNE. Mr. President, I ask unanimous consent that a statement I have prepared on the outstanding work of the Secret Service be printed in the CONGRESSIONAL RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR FREDERICK G. PAYNE ON THE SECRET SERVICE

The Vice President of the United States, during his recent visit to Latin America, narrowly escaped serious bodily injury and possibly even death. Had either occurred, the repercussions therefrom would have probably disrupted for many years to come the long-standing and well-grounded alliance between the United States and her neighbors to the south. Americans, while not easily provoked, have historically reacted strongly and resolutely to any hostile action toward his citizens or property either at home or abroad. One can only imagine the force and direction of aroused American public opinion had the Vice President been injured or killed.

The fact that the Vice President and United States relations with Latin America are still whole is due in sole measure to the calmly deliberate actions of a handful of Americans, namely, the Secret Service agents who accompanied the Vice President throughout his tour. It is amazing enough that six Secret Service agents were able to fend off an aroused and fanatic mob of several hundred, but it is almost incredible to find that they did so without the use of weapons or unnecessary physical force. One can only surmise the effect of world opinion on United States prestige had one of the Secret Service agents lost his control and wounded or killed a Peruvian or Venezuelan citizen. The Vice President, himself, most eloquently described the conduct and value of the Secret Service work in a recent address to the National Press Club, in which he said:

"The greatest credit goes not to me, not to members of our party, but to the Secret Service who showed tremendous restraint, who took a great deal of abuse, and who handled themselves magnificently."

It is noteworthy to mention that Mr. NIXON, in performing the duties of the Vice President in an unprecedented manner, has added stature and dignity to the office and has engendered good will for the United States throughout his numerous trips to various parts of the world. However, the changing nature of the Vice President's office has multiplied the duties of the Secret Service who, in order to protect the Vice President, must be intimately familiar with not only problems to be faced at home, but also the anticipation and understanding of difficult situations across the globe.

It is rare that the actions and the performance of duty by this, the most highly trained law enforcement agency in the country, are brought to the attention of the American people. The only plausible explanation for the lack of notoriety given to Secret Service operations is the fact that these gentlemen are ever calm, discreet and courteous in the exercise of their highly demanding duties. The incidents in Latin America vividly demonstrated the adherence of the Secret Service to the highest standards of honorable and prudent law enforcement.

Although the attacks on the Vice President constituted an unusual test of Secret Service skill, these agents are constantly and daily called upon to deal with the possibility of injury to the President or Vice President of the United States. In any country of 180 million people, there are bound to be a handful of crackpots or fanatics who would work injury on the highest officials of our Government. The fact that the President and the Vice President safely and freely move about the country in the greatest variety of situations and physical conditions with the least amount of interference or discomfort to the public, is the highest tribute which can be paid to the Secret Service.

These incidents so highly publicized will probably serve to increase the popular conception of the Secret Service as merely bodyguards of the President and Vice President. While such is an important part of their duties, it by no means covers the extent of their many difficult and demanding assignments. The Service, as a necessary adjunct of the Department of the Treasury, has historically been charged with the responsibility of enforcing a large number of complex and diversified laws administered by the Department.

I am pleased to have this opportunity of commenting on the valor and dignity of each and every Secret Service agent, and I trust that we in Congress and the people at large will never forget the debt that we daily owe to this small and dedicated group of Americans. In any commendation of the Service we must include the distinguished Chief, U. E. Baughman, whose able administration and remarkable example have been chiefly responsible for the high standards of the entire Service.

If ever the Secret Service is called upon to deal with another situation such as confronted them in Latin America, they have given proof that we have little to fear for the safety of their charges.

It is my further hope that whenever the Congress comes to consider the Secret Service, we shall deal with it in a spirit of generous support and rightful acknowledgment of their contributions to the safety and the preservation of the United States Government and its highest officials. The absence of their protection would only tempt the anarchists who, by threatening or destroying Government officials, could endanger democracy itself as we know it. It is high time that in recognition of the value of the Service we should insure ample and just compensation and promotions for the now existing staff and create incentives whereby a career in the Service will become more appealing to the types of individuals needed to fulfill the difficult tasks.

The Secret Service is entirely dedicated, highly qualified, and eminently capable of performing their vital task. Were this unfounded or idle praise, the United States might find itself without a Vice President.

THE TRAGIC DAY WHEN LITHUANIA LOST ITS FREEDOM

Mr. JAVITS. Mr. President, June 15 will mark the 18th anniversary of that day in 1940 when Lithuania lost its freedom and became a Soviet state by virtue of a contrived plebiscite conducted after invasion by Soviet forces and during occupation by the Red army. This was a plebiscite, the results of which were even announced in advance. After 4 years of German occupation during World War II, Lithuania was reoccupied by Soviet forces and its incorporation into the Soviet Union was made complete. The United States, along with the other free Western powers, refuses to recognize this annexation, an annexation of a country of some 3 million people made despite solemn treaties and agreements to the contrary.

Thus died the independence achieved in February 1918 when the Lithuanians had declared themselves free after 123 years of Russian rule. The independence of Lithuania was shortlived, but 22 years, but it lives forever in the hearts of its sons and daughters who cherish liberty and abhor the enslavement and the tyranny imposed by imperialistic masters. By marking this anniversary of enslavement, as we have commemorated previously in this body the attainment of Lithuanian independence, we keep fresh in the memory of Americans a small country whose liberty was forfeited through agreement between Nazi and Communist totalitarian powers; we remind the world that Lithuanian independence must remain a real expectation for the future and not merely a memory of the past.

The PRESIDING OFFICER. Is there further morning business?

Mr. MANSFIELD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further morning business? If not, morning business is concluded.

LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT OF 1958

The PRESIDING OFFICER. Without objection, the Chair lays before the Senate the unfinished business.

The Senate resumed the consideration of the bill (S. 3974) to provide for the reporting and disclosure of certain financial transactions and administrative practices of labor organizations and employers, to prevent abuses in the administration of trusteeships by labor organizations, to provide standards with respect to the election of officers of labor organizations, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Colorado [Mr. ALLOTT], which will be stated.

The CHIEF CLERK. On page 28, line 4, after "been", it is proposed to insert "finally".

On page 28, line 10, before "conviction", it is proposed to insert "final".

Mr. GOLDWATER. Mr. President, in my opinion, much progress was made on the floor of the Senate yesterday toward arriving at a more perfect bill in the field of labor-management relations. I have charged that the bill is not perfect. I feel that the amendments which were adopted yesterday accomplished much. As the Senate begins its deliberations today on the bill, I should like to list those amendments.

The first was the amendment offered by the Senator from Kentucky [Mr.

COOPER] to give the Secretary of Labor power to issue subpenas.

The second was the amendment offered by the Senator from Kentucky [Mr. COOPER] providing that a union must send financial reports to each member.

The third was the amendment offered by the Senator from Oregon [Mr. MORSE] barring from holding office in a union anyone who fails to file a report on conflicts of interest.

The fourth was the amendment offered by the Senator from New York [Mr. IVES], as modified by the suggestion of the Senator from New Jersey [Mr. SMITH], to strike the exemption clause so that all unions must file reports under title I.

The fifth was the amendment offered by the Senator from Michigan [Mr. MCNAMARA] to bar convicted felons from holding union office.

The sixth was the amendment offered by the Senator from Massachusetts [Mr. KENNEDY] providing that the Secretary of Labor must prescribe simplified forms for small unions.

The seventh was the amendment offered by the Senator from Louisiana [Mr. LONG] providing that unions may not hire any person at more than $4,000 per annum if he has been convicted of failure to file reports under the act.

The eighth was the amendment offered by the Senator from Colorado [Mr. ALLOTT] to redefine the term "labor organization."

The ninth was the amendment offered by the Senator from Colorado prescribing criminal sanction for false entry and disclosure of labor records for the purpose of obstructing justice.

The tenth was the amendment offered by the Senator from Colorado prescribing criminal sanction for false entry and disclosure of labor records for the purpose of defrauding or misleading.

The only amendment rejected yesterday was my amendment to strike from the bill the new definition of the term "supervisor." So I feel that progress was made yesterday. However, there are still three areas of the McClellan committee suggestions in which the Senate must operate. I make these remarks today in order to call the attention of the Senate to inequities which still remain in the bill in this particular field.

The first proposal which I believe will be considered today covers fiduciaries. I understand it is amendment No. 5 of the Senator from New Jersey [Mr. SMITH]. The second is in the "no man's land" field.

The third deals with the secret ballot on matters of general interest.

In February 1957, as the result of a question about the jurisdiction of the Permanent Investigating Subcommittee of the Senate Government Operations Committee, the Senate, by resolution, created the Select Committee on Improper Activities in the Labor or Management Field. A year and 4 months later, on June 1, 1958, the chairman of that committee, the distinguished senior Senator from Arkansas [Mr. MCCLELLAN], appeared on the radio program, The Manion Forum, and gave this résumé of the committee's activities:

The committee has held 146 days of public hearings and taken the testimony of 715 witnesses. The record of these hearings is spread across more than 25,000 pages of original transcript.

Members of the committee staff have traveled more than 700,000 miles and conducted approximately 18,000 interviews with prospective witnesses in 44 of the 48 States. In addition, our accountants have examined thousands of accounts, records, and files of both labor organizations and business enterprises.

To date, the committee has received, analyzed, and screened considerably in excess of 100,000 letters. More than 75 percent of these came from labor-union members or members of their families. From these letters, we have received valuable leads and much important information. Unfortunately, the committee has not been, and never will be, able to investigate all of the charges these communications contain. From them, however, and from the testimony before us, an unhappy and tragic story has unfolded.

That is the end of that part of the statement which the Senator from Arkansas made on the Manion Forum.

According to the records of the select committee, taxpayers dollars in the amount of $538,302.05 were spent during 1957 and thus far this year, of $500,000 authorized, the committee has spent $206,418.30, a total to date of $744,720.35.

Mr. President, although I may be accused by many people of being penurious, nevertheless, I have never felt that I had been niggardly in authorizing the expenditures of funds for purposes which we all consider essential. I certainly do not feel the expenditures by the McClellan committee were unnecessary, and I would gladly vote to authorize more money if I were convinced it could be profitably used. The question that comes to my mind, Mr. President, is now that we have authorized the select committee to spend the money and it has amassed this 25,000 pages of testimony, just what is being done with the knowledge that has been obtained?

There is no question that the American public has followed keenly disclosures of union corruption and lack of democratic procedures made by the McClellan committee. I have great regard for the chairman of the committee, and I have often complimented him on the splendid way in which he has attended to his duties as chairman of that committee. I concur in many of the remarks made by the chairman over the past year and one-half as to what he feels has been accomplished by the committee and what must be done to protect the American workingman from these abuses. I was 1 of the 7 members of the select committee who voted for the interim report of the committee which was issued on March 24, 1958, which contained legislative recommendations as follows:

The United States Senate Select Committee on Improper Activities in the Labor or Management Field recommends that the Congress of the United States give attention to the passage of legislation to curb abuses uncovered in five areas during our first year of hearings.

These recommendations are:

1. Legislation to regulate and control pension, health, and welfare funds.
2. Legislation to regulate and control union funds.
3. Legislation to insure union democracy.
4. Legislation to curb activities of middlemen in labor-management disputes.
5. Legislation to clarify the "no-man's land" in labor-management relations.

These recommendations are certainly reasonable and could not be characterized by anyone as being antiunion or antimanagement. Later in the debate, Mr. President, I shall comment specifically on these recommendations and relate them to the pending bill. As I sat on the floor yesterday, listening to the Senator from New York [Mr. IVES] and other Senators speak about antiunion measures, I was at a loss to understand what they were discussing. Certainly none of the proposals suggested by the distinguished Senator from Arkansas [Mr. MCCLELLAN] and others of us who serve with him on the committee can be considered to be antiunion. All we want to do is regulate and control pension and welfare funds, to control union funds, to insure union democracy, to curb activities of middlemen in labor and management disputes, and to clarify the no man's land. I defy any reasonable person to point out anything in those suggestions which even the most rabid union leader can justifiably consider as antiunion.

If Senators wish to classify as antiunion the efforts of those who would curb the growing power of certain labor bosses, then I suppose they can focus the light on a few of us who have been active in that field. However, our main purpose is not to destroy unions but to perpetuate unions. If the unbridled power of some of the labor leaders continues unchecked, I suggest that someday there may rise up in this country a wrath sufficient to do serious damage to the unions. One of the reasons why I have interested myself in this field is to prevent the coming of that day.

Mr. President, it will be recalled that in April of this year when the bill to regulate pension and welfare funds was before the Senate, amendments were offered by our distinguished minority leader [Mr. KNOWLAND], as well as the distinguished senior Senator from New Jersey [Mr. SMITH], and others, which were designed to insure democratic procedure in labor unions and to remedy loopholes in the Taft-Hartley Act. The distinguished senior Senator from Arkansas, during that debate, admitted the need for labor legislation; however, he contended from a parliamentary point of view the amendments should be rejected. His position was that the Senate Labor Committee, which had legislative jurisdiction over the proposals, ought to have a chance to consider them before the Senate as a whole voted on their passage. I did not agree with the distinguished Senator at that time; however, I certainly appreciate the depth of his convictions which were shared by many of our colleagues.

On June 1, 1958, the senior Senator from Arkansas appeared on the Manion

forum and listed the things the McClellan committee has exposed to public view. I wish to comment on these points briefly as I go through them, and state whether the bill takes care of them. The Senator from Arkansas listed them as follows:

1. The theft, embezzlement, misuse, and pilfering of union welfare and pension funds.

2. Extortion, collusion, and bribery.

3. Vandalism, violence, threats of physical harm to employers, employees, union members, and their families.

The bill takes care of the first two items, at least to some extent, certainly to a greater extent than originally. With reference to the third item, vandalism, violence, and so forth, we have much work to do in this field, and I will agree that as yet we may not know enough about it to act.

4. Fraudulent financial records and the willful destruction of such records to cover up embezzlement.

That has been covered by the pending bill.

5. The rigging of elections, denying union members the right to vote by use of force, threats, and intimidations.

That has not been covered by the pending bill.

6. The calling of strikes and the making of "sweetheart contracts" with management without the knowledge or approval of rank-and-file union members.

That has not been covered by the pending bill.

7. The imposition of trusteeships upon local unions unjustifiably and continuing them indefinitely, and the appointment of unreformed exconvicts, thugs, and known criminals to manage and operate such trusteeships.

That has been taken care of by the pending bill.

8. The infiltration into positions of power and influence in the union movement, in some areas, of racketeers, gangsters, and disreputable characters.

That has been taken care of by the pending bill.

9. Organizational picketing to force employees to join a union against their choice and to compel management to coerce its employees into doing so.

That has not been taken care of in the present language of the bill to the extent the junior Senator from Oregon and others feel it should be done.

I continue with the statement of the distinguished Senator from Arkansas on the Manion Forum:

We have also heard evidence on the impact of secondary boycotts, mass picketing, improper political activities, and other practices that we expect to further develop and report on at a later time.

Subsequent to the listing of these exposures, the senior Senator from Arkansas discussed the legislative prospects for this session of Congress and stated:

But the evils I have described must be eradicated. They can no longer be tolerated or condoned by labor leaders who have a proper sense of duty and obligation to the working men and women of this country, nor can they be ignored by responsible governmental authority.

These conditions must be dealt with. Dedicated leadership of organized labor, however conscientious and determined it may be to discover, expose, and drive out the crooks, racketeers, hoodlums, and undesirable elements who have reached positions of influence and authority in some labor unions, simply do not have either the capacity or the power to do it.

The duty, therefore, rests squarely upon the Congress of the United States to enact adequate laws to safeguard the rights, the interest, and the welfare of the workers, of the employers, and of the public at large. This duty the Congress must not shirk. It must be met. We have no other alternative except by inaction to condone that which in all good conscience we must condemn and should prevent.

A dozen or more bills have been introduced in the Senate dealing with various aspects of the problem. The Senate Labor and Public Welfare Committee is now holding public hearings and processing these measures, and it is expected that the committee will report out a bill to the Senate within the next 10 days.

The Senator from Arkansas at that time also discussed his own proposal, S. 3618, which was considered by the Senate Labor and Public Welfare Committee, and which, I might add, I supported before that body. The Senator from Arkansas described his bill as follows:

I personally have introduced a rather comprehensive bill, S. 3618. Among other things, it would require all unions to register with the Secretary of Labor with a statement revealing full information regarding the governmental and financial structure of the union and accompanied by a copy of its bylaws and constitution. To be eligible to register, its constitution and bylaws would have to meet certain minimum requirements. Among them are:

(1) The guaranteeing of democratic processes to its members by the holding of regular membership meetings.

(2) The election of all officers of the union and fixing their salaries by secret ballot.

(3) Fixing their terms for a period of 2 years.

(4) Providing for the removal of union officers for cause.

(5) The election of delegates to national conventions by secret ballot.

(6) That all officers handling union funds be placed under bond.

(7) That the minutes of meetings, detailed financial records, and other records be made available for inspection by members of the union, and that such records be preserved for a period of 6 years.

(8) Requiring each member of the union to be furnished with a copy of any collective bargaining agreement affecting his employment and that all ballots cast in any election be retained for 1 year.

(9) Prohibit the loaning of union funds to union officers, or to any business in which they are interested.

It would further prohibit organizational picketing until there had been an election by the employees designating a specific union as its bargaining agent.

It would make persons who are under civil disability for conviction of crime ineligible to serve as officers, representatives or agents of any union (this provision is essential and will surely help to drive out the ex-convicts and gangsters who have infiltrated the labor movement).

Another vital feature of my bill is that it would require unions to obtain the approval of a majority of its members, by secret ballot, before calling a strike or entering into a collective bargaining agreement with management.

The bill provides heavy criminal penalties for theft, bribery, collusion, and extortion.

Any union failing to register and to keep such registration current, as the act provides, or fails to meet the prescribed minimum requirements in its constitution and bylaws, would be ineligible to serve as a collective bargaining representative. Such union would be denied the services of the National Labor Relations Board; and, for any period of time that it was unregistered or not in compliance with the registration provisions of the act, it would be denied the tax exemption privileges now granted to labor organizations.

I make no claim that this bill is all that is needed in the way of legislation. It is not. Nor do I contend that it provides the only approach to a solution of the problem. It may not. But I do insist that, if it is enacted into law, we will have taken a major step toward correcting the unwholesome conditions that now prevail and in eliminating many of the evils the committee's investigation has exposed.

The Senator from Arkansas on that program posed several rhetorical questions, such as: "Will Congress act?" "Does the Congress have the moral and political courage to face up to the issue and meet its responsibilities?"

Just before concluding his remarks, the Senator from Arkansas stated:

If you agree with me, if that is what you want done (with reference to remedial legislation) let your Senators and Congressmen know how you feel about it.

I cannot speak for any other Members of the Senate, but my office has been deluged with mail from both union members and nonmembers alike, insisting that Congress meet its legislative responsibilities in the labor-management field so as not to be guilty of unjustifiable delay or unconscionable compromise.

Mr. President, earlier I mentioned that I was confused by certain happenings of the past few days and the single most confusing statement that I read was one issued by the senior Senator from Arkansas on June 6, when he said:

The committee bill, of course, does not cover all areas in which legislation is needed, but an effort to enact everything that is needed, in my judgment, would result in the enactment of nothing.

This statement leaves several questions to be answered, and one of them is whether the recommendations of the McClellan committee were so broad that nobody could abide by them. If not, then the present bill is no bill at all, but merely a measure which pays lipservice to the responsibilities of Congress.

I have mentioned earlier that I am a neophyte in the political arena and must seek guidance from those I respect in this body. The one question which intrigues me more than any other is this: If the Kennedy bill is the only measure that can be passed at this session of Congress, who decreed so, and who has determined that this is all that the Congress will pass? Mr. President, certainly the Republicans have not determined this is the only bill they can support, because four minority members of the Senate Labor Committee filed supplemental views on the committee bill in which they took exception to the limited scope of the measure. The Republican attitude was demonstrated further in the votes on the Knowland amendments in the debate on the welfare and pension bill.

During that debate many conservative Senators on the other side of the aisle implied that if it were not for the parliamentary precedent involved, they would have been happy to vote for the democratic process amendments which were offered by the minority leader.

Mr. President, I do not understand exactly what it is or who it is that makes anyone feel that the Kennedy bill is the only measure on the subject which can be passed during this session of Congress. I think the American public is clamoring for comprehensive protective legislation, and I think the Senate is duty bound to answer their plea.

Mr. President, earlier I mentioned that I was deeply interested in practical politics. To further my knowledge I have studied many writings both ancient and contemporary. Our eminent colleague, the junior Senator from Massachusetts [Mr. KENNEDY], cosponsor of the bill, recently authored a prize-winning book entitled, "Profiles in Courage." The book is a must for anyone, like myself, who has an intense interest in politics. Recently, I reread the book to seek a clue as to what is happening today. I was particularly interested in the discussion on compromise in which Senator KENNEDY commented as follows:

> Some of my colleagues who are criticized today for lack of forthright principles—or who are looked upon with scornful eyes as compromising politicians—are simply engaged in the fine art of conciliating, balancing, and interpreting the forces and factions of public opinion, an art essential to keeping our Nation united and enabling our Government to function. Their consciences may direct them from time to time to take a more rigid stand for principle, but their intellects tell them that a fair or poor bill is better than no bill at all, and that only through the give-and-take of compromise will any bill receive the successive approval of the Senate, the House, the President, and the Nation.

Mr. President, I think all of us in this body subscribe to the principle outlined in this passage, but I have always felt that a compromise was a balancing of points of view. It seems to me that so far as the committee bill is concerned, the Senate has nothing to equate. It apparently is faced with the choice between a weak, ineffective bill, a weaker, more ineffective bill, or no bill at all.

I do not think that this choice involves any compromise on the part of any Senator, nor do I think it affords the opportunity for a profile in courage, much less a full-length portrait.

The bill reported by the Labor Committee has been described variously as a moderate bill, a middle-of-the-road measure, a bill worthy of bipartisan support and most recently as a nonpartisan bill. I can certainly subscribe to the last description of the proposal. This bill is nonpartisan because it is not worthy of support by members of either party, any labor union leader or member, or the public at large.

Mr. President, later in the debate, I intend to discuss in detail the provisions of the pending bill and contrast them with the provisions recommended by the administration, various Senators, including the senior Senator from Arkansas and the minority leader, as well as the provisions of my own bill, which was offered in committee as a substitute for the bill we are discussing today.

Mr. President, I should like now to get back to the source of my confusion, the statement that "the bill, of course, does not cover all the areas in which legislation is needed, but an effort to enact everything that is needed, in my judgment, would result in the enactment of nothing." I find it difficult to reconcile that statement of June 6 with a statement made by the senior Senator from Arkansas on April 25, during the debate on the pension and welfare legislation:

> The present Congress will fail in its duty if it does not, at this session, legislate in this area. That is my position. I am only trying at this time to preserve the due and proper legislative processes. When we undertake to legislate in an area such as this, where there are sharp and conflicting views, with deep convictions back of them, I do not think the Senate or the Congress should deny to people the right to be heard on either side, or those in between.

I can assure the Members of this body that the Labor Subcommittee heard from many witnesses during the course of deliberations and was afforded an opportunity to consider sharp and conflicting views.

Mr. President, again on the floor of the Senate, the senior Senator from Arkansas, on April 15, expressed his views on the responsibility of the Congress to legislate in the labor-management field, as follows:

> The duty, therefore, rests squarely upon the Congress to enact laws to safeguard the rights, the interest, and the welfare of the workers, of the employers, and of the public at large. This duty we cannot shirk. It must be met. We have no other alternative except by inaction to condone that which in all good conscience we should condemn and prevent.
>
> It is being freely predicted in some quarters that the Congress lacks the moral and political courage to face up to this issue and to do anything about it. Other sources are skeptical and are apprehensive that we will be influenced by partisan or political considerations rather than be guided by a sense of patriotic and public responsibility. On that score, I know we face a challenge, but I do not believe we will either fail or falter. I have an abiding faith and confidence in the courage, wisdom and integrity of the membership of this body, and of the other House of the Congress, and I simply cannot—I do not—believe we will be derelict in our duty and found wanting.

Mr. President, I, too, have an "abiding faith and confidence in the courage, wisdom, and integrity of the membership of this body and of the other House of Congress," and I cannot, therefore, join in the feeling that the bill we are considering today is the best that can be passed.

I am certain that my remarks will be interpreted in some quarters as an indication that I would not be happy with anything short of a union-busting measure.

I ask anyone who subscribes to this feeling to examine the substitute bill which I offered to determine whether or not it is a union buster. I can honestly state that I have not offered, nor did the Labor Subcommittee consider, any measure which deserves such an appellation. The committee did consider, however, legislation which would go far toward correcting the abuses and mismanagement disclosed by the McClellan committee.

Mr. President, the Senate is now being given an opportunity to foreclose discussions on the question of whether or not the pending measure is "the best we can do." I have not satisfied myself as to the source of opposition to a comprehensive bill, but apparently a specter has settled over this body and has led many Senators to believe that a weak, mousy bill is the best that can be accomplished. Mr. President, I do not subscribe to that feeling, and I do not know exactly who does. Certainly not the public; certainly not the 100,000 people who have written to the McClellan committee; certainly not the Republican Members of the Senate; and, certainly not, to my way of thinking, my colleagues on the other side of the aisle who, although they voted against the amendments to the welfare and pension bill, reserved the right to reconsider their vote after the Labor and Public Welfare Committee had had an opportunity to consider the amendments.

Mr. President, I have never felt that the Senate must base its legislation on what it feels is the attitude of the other House of Congress, nor has it been demonstrated to me that the other House of Congress is interested in a weak labor-management bill. Who, then, Mr. President, is the source of the feeling that weak legislation is the best that we can accomplish?

I have not heard of any genuine opposition to comprehensive legislation to correct what the McClellan committee has spotlighted, except—and this is to be expected—from certain labor leaders. I may be naive, Mr. President, but I do not think the time has yet come when labor leaders can say what will and what will not pass the Senate. Only the Senate can determine that and in the next few days, during the yea-and-nay votes on amendments to this bill, the question will be set at rest, once and for all.

Mr. President, if the pending legislation is the best that can be passed by the Senate, then I feel it is time to give serious consideration to the remarks of the senior Senator from Arkansas, made on the floor of the Senate on March 18, 1958:

> Some reference has been made to the usefulness of the (McClellan) committee. Whenever I reach the conclusion that the usefulness of the committee has come to an end for the purposes for which it was created, I shall walk out on the floor of the Senate and so report. If the Senate does not agree with me, then I shall ask to be relieved of my duties. I do not want to perform a vain and useless and ineffective labor, arduous as it is, for whatever vainglory there may be in serving as chairman of a Senate investigating committee. I want the RECORD to be very clear on that point.

After it has been finally determined how squarely the Senate is willing to meet its obligations, I should like to ask the senior Senator from Arkansas to advise the Senate whether the usefulness of the McClellan committee has come to an end and, if so, why the suggestions

of the junior Senator from Michigan [Mr. McNAMARA] and the senior Senator from Oregon [Mr. MORSE] should not be implemented.

In the meantime, Mr. President, I am confident that the Members of the Senate will lay aside their personal differences and make of this ivy-league bill, conceived in Cambridge and dedicated to the proposition that something—though weak, ineffective, and illusory, is better than nothing, a meaningful demonstration of lawmaking.

The actions of yesterday indicate that the Senate recognized the deficiencies of the bill by plugging some of the loopholes, which I outlined at the outset of my remarks today. There are still other areas of major importance, covered by the McClellan committee report, which have not been touched upon. It is my hope that today the Senate will proceed to close these additional loopholes and produce a really effective bill, a bill of which we can be proud.

Mr. President, I do not like to impose upon the time of the Senate longer, but I am forced, by remarks made yesterday, both on the floor and in the press of the Nation against Secretary of Labor Mitchell, to offer at least a defense on his behalf.

I know that those who know of the relationship between Secretary Mitchell and me will think that it is somewhat strange for me to be defending a man whom I have criticized often. But our relationship is a friendly one, on a personal basis, although we have disagreed in the field of labor law.

Both the Senator from New York [Mr. IVES] and the Senator from Massachusetts [Mr. KENNEDY] have criticized Secretary Mitchell for issuing a press release. Secretary Mitchell said:

> I have been following closely the work of the Labor Subcommittee of the Senate Committee on Labor and Public Welfare headed by Senator KENNEDY in its efforts to draft legislation to curb abuses in the labor-management field.
>
> After examining and analyzing the proposals that have just been made to the Congress by the committee, I am deeply disappointed to find that these proposals contain deficiencies and weaknesses of such magnitude that were they enacted into law, I am convinced they would provide only illusory protection to trade union members and to the public, as well as being almost impossible to administer.

Mr. President, the proof of the pudding is in the eating. Yesterday the Senate, after due deliberation, recognized at least 10 places in the Kennedy-Ives bill which were weak and needed strengthening. I think it was 10; it might have been 9. So, certainly, that paragraph of Secretary Mitchell's statement was true. Then the Secretary said:

> I was discouraged to find that because of imperfections, omissions, or loopholes in the language of these legislative proposals submitted by the committee, the proposals not only fail to meet the recommendations for labor-management legislation made to the Congress by President Eisenhower last January, but that they also weaken the already pitifully ineffective legal protection presently provided by law to union members and the public.

Mr. President, we need only to look at some of the amendments agreed to yesterday to realize that the Senate recognized imperfections, omissions, or loopholes in the language of the bill. So, again, the Secretary of Labor was correct. The Secretary continued:

> The legislation submitted to the Senate by the committee would exempt more than 60 percent of labor unions from its provisions, including many unions which now report their financial affairs to the Government. Paper locals, like those controlled by persons such as Johnny Dio, could be permitted concealment.

Mr. President, that must have been a true statement, because the Senate in its wisdom saw fit to adopt amendments which would plug loopholes in the language, loopholes which would have allowed the activities of the Johnny Dios to continue.

The Secretary of Labor continued:

> Also, under these proposals the activities of such union organizations as the Western Conference of Teamsters, with their Brewsters and Becks, might never be exposed to public view.

Again, that must have been a true statement by the Secretary, because the Senate, in its august judgment, saw fit to agree to amendments which would plug the loopholes to which the Secretary referred.

The Secretary continued:

> Under present laws, unions seeking NLRB recognition must file financial reports with the Secretary of Labor and make these reports available to their membership. The committee's proposals would relieve unions of this obligation, and would instead force local members to go to Washington to obtain such information.

Certainly one of the most distinguished members of the Committee on Labor and Public Welfare, the Senator from Kentucky [Mr. COOPER], recognized the loophole and was successful in having adopted an amendment which he offered. So again Secretary Mitchell was right.

The Secretary continued:

> The legislative proposals reported by the committee give certain duties and enforcement obligations to the Secretary of Labor, but they provide the Secretary with inadequate powers to properly discharge his responsibilities. For instance, the proposals would require the Secretary to make investigations and inspect books and records of unions when he has "probable cause" to believe that anyone had violated the law. However, the Secretary is denied the power to compel testimony, hold hearings, or to issue subpenas for persons or records, and he appears further to be subject to injunctive processes which would impair and hinder him from carrying out even the limited authority the bill provides.

Mr. President, again the Senator from Kentucky [Mr. COOPER], a hard-working, diligent member of the Committee on Labor and Public Welfare, recognized the truth of the Secretary's statement when he offered an amendment which would close the loophole, and was instrumental in having it adopted. So, again, the Secretary of Labor was correct.

I read further from the Secretary's statement:

> Other serious deficiencies in the committee's proposals include the destruction of the present rights of union members to seek State and Federal court relief to enforce their democratic rights; the continuation of a no-man's land between State and Federal labor laws which denies legal protection to thousands of workers; and the relaxation and in some cases total destruction of the present legal protections provided union members.

Mr. President, one might argue that there is a provision in the Kennedy bill which purports to take care of that situation; but it takes care of it in liberal fashion, by turning over the jurisdiction to the Federal Government, instead of letting the authority rest with the States, where we who believe in States rights think it should rest. But today, I feel certain, an amendment will be offered which will take care of that deficiency in the bill.

I shall not comment on the next two paragraphs of the Secretary's statement, because I do not believe either the distinguished senior Senator from New York or the distinguished junior Senator from Massachusetts found fault with them.

In conclusion, I think it was disclosed yesterday that the Secretary of Labor not only was right in his opinions of the bill, but that he was following his duty as Secretary of Labor in pointing out deficiencies in the bill. In one day, I suggest, almost all the deficiencies which were called to the attention of the Senate by the Secretary of Labor were recognized by the Senate and were corrected.

I apologize for taking so much of the time of the Senate to make the RECORD clear in respect to the feelings both of the Secretary of Labor and myself.

FEDERAL EMPLOYEES SALARY INCREASE ACT OF 1958—CONFERENCE REPORT

Mr. JOHNSON of Texas. Mr. President, a very important conference report which affects more than 1 million persons is ready, and awaits our action.

I wish to state that the distinguished chairman, Mr. JOHNSTON of South Carolina, and the ranking minority member, Mr. CARLSON, of the Committee on Post Office and Civil Service, have done an excellent job in bringing the conference report to us.

The Senate must act first. The action has been long delayed. I am informed that it will probably take less than 5 minutes to dispose of the conference report, which is a highly privileged matter.

Therefore, I ask unanimous consent that the conference report be laid before the Senate; and, when that is done, I ask the distinguished chairman of the committee, the senior Senator from South Carolina, to make a brief statement in explanation of the report, and I also ask the ranking minority member of the Post Office and Civil Service Committee, the distinguished Senator from Kansas [Mr. CARLSON] to make a statement on the report.

Mr. JOHNSTON of South Carolina. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the amendment of the House to the bill (S. 734)

to revise the basic compensation schedules of the Classification Act of 1949, as amended, and for other purposes. I ask unanimous consent for the immediate consideration of the report.

The PRESIDING OFFICER. The report will be read for the information of the Senate.

The legislative clerk read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the amendment of the House to the bill (S. 734) entitled "An Act to revise the basic compensation schedules of the Classification Act of 1949, as amended, and for other purposes", having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

Amendment Numbered 1: That the Senate recede from its amendment numbered 1.

Amendments Numbered 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, and 13: That the House recede from its disagreement to the amendments of the Senate numbered 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, and 13, and agree to the same.

Amendment Numbered 5: That the House recede from its disagreement to the amendment of the Senate numbered 5 and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"SEC. 10. Section 505 of the Classification Act of 1949, as amended (5 U. S. C. 1105), is amended by adding at the end thereof the following new subsections:

"'(f) The Director of the Administrative Office of the United States Courts is authorized to place a total of four positions in grade 17 of the General Schedule. Such positions shall be in addition to the number of positions authorized to be placed in such grade by subsection (b).

"'(g) The Commissioner of Immigration and Naturalization is authorized to place a total of eleven positions in grade 17 of the General Schedule. Such positions shall be in addition to the number of positions authorized to be placed in such grade by subsection (b).

"'(h) In any case in which, subsequent to February 1, 1958, provisions are included in a general appropriation Act authorizing an agency of the Government to place additional positions in grade 16, 17, or 18, the total number of positions authorized by this section to be placed in such grades shall, unless otherwise expressly provided, be deemed to have been reduced by the number of positions authorized by such provisions to be placed in such grades. Such reduction shall be deemed to have occurred in the following order: first, from any number specifically authorized for such agency under this section, and second, from the maximum number of positions authorized to be placed in such grades under subsection (b) irrespective of the agency to which such positions are allocated.

"'(i) Appointments to positions in grades 16, 17, and 18 of the General Schedule shall be made only upon approval by the Civil Service Commission of the qualifications of the proposed appointees, except that this subsection shall not apply to those positions—

"'(1) provided for in subsection (e) of this section;

"'(2) to which appointments are made by the President alone or by the President by and with the advice and consent of the Senate; and

"'(3) for which the compensation is paid from (A) appropriations for the Executive Office of the President under the headings "The White House Office", "Special Projects", "Council of Economic Advisers", "National Security Council", "Office of Defense Mobilization", and "President's Advisory Committee on Government Organization", or (B) funds appropriated to the President under the heading "Emergency Fund for the President, National Defense" by the General Government Matters Appropriation Act, 1959, or any subsequent Act making appropriations for such purposes.'

"SEC. 11. (a) Section 505 (b) of the Classification Act of 1949, as amended, is amended by striking out 'twelve hundred and twenty-six' and inserting 'fifteen hundred and thirteen', by striking out 'three hundred and twenty-nine' and inserting 'four hundred and one', and by striking out 'one hundred and thirty' and inserting 'one hundred and fifty-nine'.

"(b) Section 505 (e) of such Act is amended by striking out 'thirty-seven' and inserting in lieu thereof 'seventy-five'.

"SEC. 12. (a) The first section of the Act of August 1, 1947 (Public Law 313, Eightieth Congress), as amended, is amended by striking out 'one hundred and twenty' and 'twenty-five' in subsection (a) and inserting in lieu thereof 'two hundred and ninety-two' and 'fifty', respectively.

"(b) Such section is further amended by striking out 'thirty' in subsection (b) and inserting in lieu thereof 'ninety'.

"(c) Such section is further amended by adding at the end thereof the following new subsections:

"'(d) The Secretary of the Interior is authorized to establish and fix the compensation for not more than five scientific or professional positions in the Department of the Interior, each such position being established to effectuate those research and development functions of such Department which require the services of specially qualified personnel.

"'(e) The Secretary of Agriculture is authorized to establish and fix the compensation for not more than five scientific or professional positions in the Department of Agriculture, each such position being established to effectuate those research and development functions of such Department which require the services of specially qualified personnel.

"'(f) The Secretary of Health, Education and Welfare is authorized to establish and fix the compensation for not more than five scientific or professional positions in the Department of Health, Education, and Welfare, each such position being established to effectuate those research and development functions of such Department which require the services of specially qualified personnel.

"'(g) The Secretary of Commerce is authorized to establish and fix the compensation for not more than 25 scientific or professional positions in the Department of Commerce, of which not less than five shall be for the United States Patent Office in its examining and related activities, each such position being established to effectuate those research and development functions of such Department which require the services of specially qualified personnel.

"'(h) In any case in which, subsequent to February 1, 1958, provisions are included in a general appropriation Act authorizing an agency of the Government referred to in this Act to establish and fix the compensation of scientific or professional positions similar to those authorized by this Act, the number of such positions authorized by this Act shall, unless otherwise expressly provided, be deemed to have been reduced by the number of positions authorized by the provisions of such appropriation Act.'

"(d) Section 3 of such Act is amended by inserting after 'Secretary of Defense' a comma and the following: 'the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Health, Education, and Welfare,' and by inserting after 'Military Establishment' a comma and the following: 'the Department of the Interior, the Department of Agriculture, the Department of Commerce, the Department of Health, Education, and Welfare,'.

"(e) Section 208 (g) of the Public Health Service Act, as amended (42 U. S. C. 210 (g)), is amended by striking out 'sixty positions' and inserting in lieu thereof 'eighty-five positions, of which not less than seventy-three shall be for the National Institutes of Health'.

"(f) The annual rate of basic compensation of the position of Chief Postal Inspector in the Post Office Department shall be $19,000.

"SEC. 13. (a) (1) Clause (2) of that paragraph of section 602 of the Classification Act of 1949, as amended (5 U. S. C. 1112), which defines the level of difficulty and responsibility of work in grade 5 of the General Schedule (GS–5) is amended to read as follows:

"'(2) to perform, under immediate supervision, and with little opportunity for the exercise of independent judgment, simple and elementary work requiring professional, scientific, or technical training; or'.

"(2) Clause (2) of that paragraph of the same section which defines the level of difficulty and responsibility of work in grade 7 of the General Schedule (GS–7) is amended to read as follows:

"'(2) under immediate or general supervision, to perform somewhat difficult work requiring (A) professional, scientific, or technical training, and (B) to a limited extent, the exercise of independent technical judgment; or'.

"(b) The Civil Service Commission shall exercise its authority to issue such standards or regulations as may be necessary for the administration of subsection (a) of this section.

"SEC. 14. It is the sense of the Congress that appropriations for cooperative agricultural extension work and appropriations for payments to State agricultural experiment stations for the fiscal year beginning July 1, 1958, should include additional amounts sufficient to provide increases in the portion of the compensation of persons employed in such work or by such stations, which is paid from such appropriations, corresponding to the increases provided for employees under this Act."

And the Senate agree to the same.

OLIN D. JOHNSTON,
MIKE MONRONEY,
DICK NEUBERGER,
FRANK CARLSON,
WILLIAM E. JENNER,
Managers on the Part of the Senate.

TOM MURRAY,
JAMES H. MORRISON,
JAMES C. DAVIS,
EDWARD H. REES,
ROBERT J. CORBETT,
Managers on the Part of the House.

The PRESIDING OFFICER (Mr. JACKSON in the chair). Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. JOHNSON of Texas. Mr. President, as I understand, the conference report is a unanimous one.

Mr. JOHNSTON of South Carolina. That is correct.

Mr. JOHNSON of Texas. I yield to the Senator from South Carolina.

Mr. JOHNSTON of South Carolina. Mr. President, I am certainly glad to report that the conference report on Senate bill 734, the classified pay bill, is a unanimous report.

The conference agreement accepts in principle the bill as amended and passed by the Senate only a few days ago.

Major modifications of that bill, as agreed to in conference, are as follows:

First, the conference agreement gives professional and scientific personnel, whose positions have been up-graded by Civil Service Commission action, the full amount of the increase provided by the bill.

Second, the number of supergrades and high level professional and scientific positions authorized by the Senate version of the bill are reduced by approximately one-half.

Third, the conference agreement accepts a number of clarifying and perfecting amendments which were adopted by the Senate.

In brief, this measure provides an across-the-board 10 percent increase to employees in the executive branch, the legislative branch, and the judicial branch.

The increase is retroactive to the first pay period beginning on or after January 1 of this year.

Of course, that provision was not before the conferees, inasmuch as both Houses had already passed favorably on that feature.

In addition to the employees mentioned, this measure provides an adjustment in the upper levels of the Post Office field schedule, thereby giving all Federal employees equal treatment. That provision, and also the one to which I referred a few moments ago—that dealing with the scientific positions—were requested by the administration.

Mr. President, the conference agreement provides a proper increase, and accords all employees equal treatment. The report, as agreed to by all the conferees, is good, fair, and long overdue.

The PRESIDING OFFICER. The question is on agreeing to the report.

Mr. BYRD. Mr. President, will the Senator from South Carolina yield to me?

Mr. JOHNSTON of South Carolina. I yield.

Mr. BYRD. I should like to ask the Senator from South Carolina the cost of the retroactive provision. As I understand, this measure will be retroactive so far as it concerns the civil service employees, those in the legislative branch, and those in the judicial branch.

Mr. JOHNSTON of South Carolina. That is correct.

Mr. BYRD. What will be the extra cost?

Mr. JOHNSTON of South Carolina. It will be five-twelfths of the annual cost of the bill, or approximately $200 million. But both Houses had previously passed on that provision, as the Senator from Virginia knows, so it was not before the conferees.

Mr. BYRD. Is not the Senator from South Carolina mistaken as to the amount? Certainly, the cost for 5 months will be considerably larger than the amount he has stated; would it be closer to $500 million?

Mr. JOHNSTON of South Carolina. No; the total cost for 1 year is that amount; and the cost of the retroactive provision will be five-twelfths of that.

Mr. BYRD. The Senator from South Carolina handled the original bill. What was the justification for making the increase effective as of January 1958?

Mr. JOHNSTON of South Carolina. The justification was that these employees should have received the increase then, instead of later this year.

My BYRD. That is the Senator's opinion?

Mr. JOHNSTON of South Carolina. Yes.

Mr. BYRD. Congress did not enact the bill then; but the conference report would require that the increase be made effective as of 5 months ago.

Mr. JOHNSTON of South Carolina. The Senator from Virginia will recall that last year the Congress passed the pay increase bill, but the President vetoed it.

Mr. BYRD. So the bill did not then become a law.

Mr. JOHNSTON of South Carolina. That is true.

Mr. BYRD. Mr. President, I wish to express my opposition to retroactive salary increases. I think that is a very bad policy. I am now advised that the retroactive pay features in the classified bill will cost $260 million; that the retroactive features in the postal pay act will cost $118 million; and that the military pay bill will be effective for 1 month in fiscal year 1958. The cost of this bill for June will be approximately $50 million. The total cost of what may be regarded as retroactive features in pay legislation thus far in the current session of Congress will be in excess of $425 million. I shall cast my vote against the conference report.

Mr. JOHNSTON of South Carolina. Mr. President, I wish it clearly understood that the conferees' hands were tied, insofar as the retroactive feature was concerned, because that provision was contained in both the House of Representatives version and the Senate version of the bill.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. YARBOROUGH. Mr. President, will the Senator from South Carolina yield to me?

Mr. JOHNSTON of South Carolina. I yield.

Mr. YARBOROUGH. Mr. President, I wish to commend the conferees for the fine work they have done on this measure.

As a member of the Committee on Post Office and Civil Service, I can state from my personal knowledge that both the distinguished chairman of the committee, Mr. JOHNSTON of South Carolina, and its ranking minority memeber, the Senator from Kansas [Mr. CARLSON], worked for many months on this measure. The committee received testimony over a period of many weeks.

I particularly wish to congratulate the conferees for extending the 10-percent salary increase to scientific personnel, inasmuch as the testimony showed that the Government was losing some of its very valuable scientific employees who are engaged in some of the most critical governmental work; and included among them are Navy personnel who are engaged in underwater sound research at the Philadelphia Navy Laboratory and also personnel who are engaged in research work in various places, including both Army and Navy research work at Governors Island. Many other critical programs of the Government are affected. It is obvious that the continued loss of service of such valuable scientific personnel in programs of that kind has a very direct bearing on the efficiency or lack of efficiency of the national-defense effort.

I believe the testimony which has been received shows clearly that the salary increases provided by the conference report are modest, as compared to the pay increases which have been provided by private employers throughout the country.

I believe the increases provided by the report will help answer the problem of how to persuade personnel of ambition and ability to continue in the Government service, rather than to leave it and enter private employment.

One million and thirty thousand Government employees are covered by this measure; and the evidence received by the committee shows that virtually all of them are faithful and loyal, and many of them are highly dedicated. The testimony also shows that many of the scientific personnel, particularly, could receive double their present salaries if they were to leave the Government service and enter private employment. I believe that this bill is a good Government bill, and that its adoption will increase the morale and efficiency of the Government service.

Therefore, Mr. President, I believe our sincere thanks are due to the conferees on the part of the Senate for their very fine and speedy work. In fact, I think our thanks are particularly due to them because the conference report is a unanimous one on the part of all the conferees.

In conclusion, let me say that I have enjoyed very much the privilege of serving on the Committee on Post Office and Civil Service under the excellent leadership of the distinguished senior Senator from South Carolina [Mr. JOHNSTON]. I am for these salary increases, and have supported this measure since before my election to the Senate. I have supported it with diligence in the committee and urge its adoption.

Mr. JOHNSTON of South Carolina. Mr. President, I thank the Senator from Texas, not only for the statement he has made, but also for the very fine work he has done as a member of the committee.

As he recalls, in the course of the hearings we ascertained that private firms and corporations throughout the country have increased the salaries of their employees by about twice the 10-percent increase which, as a result of the enactment of this measure, will be made in the salaries of these Government employees.

Mr. CARLSON. Mr. President, I am pleased that this morning there has been laid before the Senate the conference report which provides for a 10-percent pay increase for the classified employees of the Federal Government. I am also

pleased that the report is a unanimous one.

Furthermore, when this bill was considered by the Senate, I stated that whatever pay increase the Senate voted for the postal employees I would insist also be provided for the classified employees. The pending report includes that very provision.

I should also like to state that at this session the Congress has taken the same action in regard to increasing the pay of the retired employees or annuitants who formerly were employed in the Federal civil service.

So the Congress has—to the credit of the distinguished chairman of our committee—handled three rather difficult, rather controversial bills, in dealing with pay legislation for the postal employees, the classified employees, and the retired Federal employees or annuitants. The postal-pay legislation was particularly difficult, because it carried with it a postal-rate increase. Our committee has labored literally for years, and certainly all of last year and a great portion of this one, on these three bills.

Therefore, Mr. President, I am pleased that today we have brought a unanimous conference report to the Senate.

I should like to refer to 1 or 2 items in the conference report. In order to come to an agreement, we were forced to reduce by about 50 percent the number of supergrade positions which had been requested by the executive branch of the Government, and which were reported by the Senate committee and passed by the Senate. I wish to state I regret that it was necessary to do that, because I firmly believe the executive branch of the Government needs a number of additional supergrade positions.

There are 2 million Federal employees, and presently there are about 1,300 supergrade positions. No private employer, no business would operate with that percentage of top administrative or executive positions.

The executive branch of the Government had asked for 568 additional supergrade positions, and 555 additional professional-scientific positions. As I stated, we were forced to reduce that number by practically 50 percent, in order to arrive at an agreement.

I regard this action as an unduly restrictive attitude toward the establishment of badly needed positions. I regret that such action was necessary to reach a conference agreement.

Like the chairman of the committee, I shall look forward to further requests from the departments; and, if the departments can justify their requests, we hope to establish such positions in other legislation.

The second point I wish to make is that when the Committee on Post Office and Civil Service does not act to create new supergrade positions, the Appropriations Committee from time to time includes in its bills increases in the number of supergrade positions. I see present on the floor the distinguished Senator from Florida [Mr. HOLLAND], who this week handled the Department of Commerce appropriation bill. In it were provided 20 new supergrade positions. If the Committee on Post Office and Civil Service does not act in the matter, then the only way a department can get the positions it needs is through the action of the Appropriations Committee. That not only is a poor way to legislate, but it is unfair to our committee. I hope that it will not be necessary for the Appropriations Committee to provide supergrade positions, and that the Committee on Post Office and Civil Service will be permitted to handle such matters.

I wish to refer to the section of the bill which provides the Civil Service Commission shall check on the appointments to positions in grades 16, 17, and 18 in the General Schedule, regarding what we call positions outside the civil-service classification. We wrote into the bill a provision requiring the Civil Service Commission approval of appointees to GS 16, 17, and 18 positions. I sincerely hope the Commission will keep in mind that this will not be the start of a program whereby the executive branch will be limited to appointments without regard to the type of persons they need, and have to secure them through the Civil Service Commisison. The executive branch must have and should have some leeway in making appointments to administrative and executive positions.

Mr. President, I am happy the three bills to which I have referred have passed. I know they will result in great benefit to all Government employees and to retired employees. It has been a pleasure to have been associated with this legislation.

Mr. SYMINGTON. Mr. President, the lead and zinc mining industry in my State——

Mr. JOHNSON of Texas. Mr. President, will the Senator from Missouri defer his statement? The Senator from Ohio [Mr. LAUSCHE] wants to speak on the conference report, which will affect about 1 million persons. We would like to have it acted on.

Mr. SYMINGTON. I yield to the Senator from Ohio.

Mr. LAUSCHE. Mr. President, I understand that pending before the Senate is the conference report on the classified Federal employees' wage increase bill. When that bill was originally acted upon by the Senate I indicated in the RECORD that if there had been a yea and nay vote I would have cast my vote in the negative. I did so on the basis that the President's original recommendation was that the pay increase should be limited to 6 percent. Then there was a feeling that the pay increase would be fixed at 7½ percent. It finally was pushed up to 10 percent and beyond. I now understand that out of the conference has come a recommendation that, in substance at least, the pay increase should be 10 percent.

I cannot subscribe to that recommendation. I cannot do so because of the fact that the 10 percent wage increase fixed by the Senate will be used as an index throughout the country in the making of demands for increased wages, and thus contribute to the unbearable inflation from which we are suffering. We in the Congress will be setting the index. We will be declaring that a 10 percent wage increase is justifiable.

I desire to repeat what I said when the bill was voted upon. The dollar today is worth only 48 cents. We have a $280 billion debt. We shall have a $3 billion deficit in 1958. If we keep moving in the direction we have been moving, there will be a $10 billion deficit in 1959.

Those who have bonds or who receive annuities or retirement payments can sit at home and look, and while they are doing so they will see the savings they have built up dwindling before their very eyes.

Inflation is one of the menaces facing our country. I do not think Congress should, by example, give word to labor leaders and to industrialists: "Keep pumping up your prices. The public will pay."

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. LAUSCHE. I understand there will be a voice vote on the conference report. I shall vote against the recommendation of the conferees.

Mr. SYMINGTON. I yield to the Senator from Nebraska.

Mr. CURTIS. Mr. President, I wish to say to the Senator from Ohio that I am in accord with what he has said. I think percentagewise the pay raise cannot be justified. The retroactive features also raise some very serious questions.

In all this spending, we are not spending our own money; we are not spending the money of this generation's taxpayers; we are spending money which will have to be raised by somebody else.

I appreciate the remarks of the Senator from Ohio.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that at the conclusion of action on the conference report the Senator from Missouri [Mr. SYMINGTON] be recognized.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LAUSCHE. Mr. President, I wish to supplement the statement which I made. I, too, feel that the retroactive feature of the bill is not sound, and I state for the RECORD that in 10 years in the governor's office in Ohio I saw no semblance of retroactive features such as I have witnessed in the bills passed by Congress. Retroactivity has been injected into practically every bill which provides for the expending of the public's money.

Mr. WILLIAMS. Mr. President, will the Senator yield?

Mr. LAUSCHE. I yield to the Senator from Delaware.

Mr. WILLIAMS. I wish to associate myself with the fear the Senator from Ohio has expressed of what will result from the principle we are establishing. This bill will result in the expenditure of from $250 million to $275 million in retroactive payments, which will be made about the 1st of August. Other bills which we have passed will embrace another $250 million.

Of course, the nearest estimate we can get is that under such provisions, $500 million of retroactive payments will be made around the first of August. Certainly we should take recognition of the

fact, as has been pointed out, that the Federal Government does not have the money. Not only does the Federal Government not have it, but it cannot borrow the money until an increase in the ceiling for the national debt has been provided. I think it is time Congress should wake up to the fact that the American taxpayers are paying just about all they can afford to pay.

The present proposal goes far beyond the needs brought about by an increase in the cost of living.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

Mr. JOHNSON of Texas. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. JOHNSTON of South Carolina. Mr. President, I move to lay that motion on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from South Carolina [Mr. JOHNSTON] to lay on the table the motion of the Senator from Texas [Mr. JOHNSON] to reconsider.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I want the RECORD to show that had there been a record vote I would have voted in the negative on the conference report.

REVISION OF BASIC COMPENSATION SCHEDULES OF CLASSIFICATION ACT OF 1949—CORRECTION IN ENROLLMENT OF S. 734

Mr. JOHNSON of Texas subsequently said: Mr. President, the engrossed copy of Senate bill 734, the classified pay bill, which affects more than 1 million Federal Government workers, and which earlier today was passed by the Senate, contains an incorrect figure in the schedule for staff officers and employees of the Department of State. In the sixth line of the salary schedule in section 6 (a) (3) the figure is "8,955," whereas the correct figure is "8,755."

I submit and ask unanimous consent for its immediate consideration, a concurrent resolution for the purpose of authorizing the correction of that figure.

The PRESIDING OFFICER. The concurrent resolution will be read.

The concurrent resolution (S. Con. Res. 93) was read, as follows:

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill (S. 734), to revise the basic compensation schedules of the Classification Act of 1949, as amended, and for other purposes, the Secretary of the Senate is authorized and directed to make the following correction:

In the sixth line of the salary schedule in section 6 (a) (3) strike out "8,955" and insert in lieu thereof "8,755."

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the concurrent resolution (S. Con. Res. 93) was considered and agreed to.

The PRESIDING OFFICER. Under the unanimous-consent agreement previously entered into, the Senator from Missouri is recognized.

THE CRISIS IN THE LEAD AND ZINC INDUSTRY

Mr. SYMINGTON. Mr. President, the lead and zinc mining industry in my State, and also in other States throughout the country, is in a serious depression.

In Missouri, employment in this industry is down about 25 percent from what it was only a year ago. Furthermore, those who have retained their jobs have taken severe wage cuts, as well as reductions in their workweek.

A substantial number of miners have already exhausted their unemployment benefits, and, unless something is done promptly, the unemployment will increase and the distress of these workers and their families will worsen.

As is true in many basic extractive industries, entire communities are adversely affected when the lead and zinc mining business is depressed. No one in these mining communities is untouched by the spread of economic distress.

The various proposals which have been made for assisting the lead and zinc industries include renewal of Government purchases for the strategic stockpile, barter agreements under the provisions of Public Law 480, increase in tariff duties, and compensatory payment legislation.

Proposals alone, however, do not help the industry, and certainly do not put people back to work. Action is needed—and it is needed now.

As long ago as last September 26, the lead and zinc industry appealed to the Tariff Commission for relief; hearings were held in November; and the Tariff Commission made its recommendations to the President on April 24 of this year. So far, the President has taken no action, even though almost 50 of the 60 allowable days have already elapsed.

Delay in this decision has not only prolonged the distress of the industry, but also has had the effect of delaying action on other proposals.

The proposals which would give the most immediate assistance to the industry would be the stockpiling and barter proposals, which would relieve the market of some of the depressing effect of surpluses.

As for longer range assistance, the compensatory payment principle, as embodied in a recent proposal from the administration, appealed to me as being worthy of thoughtful consideration. I understand the chairman of the Committee on Interior and Insular Affairs is moving promptly to hold hearings on this proposal.

Action must be taken promptly to assist the lead and zinc industry, so that the unemployment can be eliminated and the employed can be allowed a reasonable take-home pay.

Mr. President——

The PRESIDING OFFICER. The Senator from Missouri.

GEN. JOE W. KELLY

Mr. SYMINGTON. Mr. President, day before yesterday a number of the Members of the Senate praised Maj. Gen. Joe W. Kelly for the outstanding way he has handled the legislative liaison responsibility for the Air Force. I desire to join them in their praise, and in their expressions of regret that he is shortly to be transferred.

I am proud that Joe Kelly has been my friend for many years. His administrative competence, his devotion to his job, his understanding of both the Air Force and the Congress, combined with his sense of humor and delightful personality, have enabled him to perform great service for his country. This he has done with unsurpassed success.

Everyone who knows General Joe wishes him the best of everything in his new assignment.

Mr. President——

The PRESIDING OFFICER. The Senator from Missouri.

TRAGIC LITHUANIA

Mr. SYMINGTON. Mr. President, 18 years ago—June 15, 1940—the Russian Communists invaded the small but free nation of Lithuania.

The result was obvious from the start—another blot of tyranny on the pages of history.

Yet the spark of freedom and independence still burns in the minds of these enslaved people. This fact should be both a warning and a source of encouragement to those of us who are fortunate enough to have escaped from the heel of Communist dictatorship.

It is a warning that human values and independence for others have no meaning to the Soviet Communists. On the other hand, such evidence that the spirit of freedom does not die easily should be an encouragement and a stimulus to us all.

Mr. President——

The PRESIDING OFFICER. The Senator from Missouri.

CLARENCE CANNON—AMERICAN PATRIOT

Mr. SYMINGTON. Mr. President, the day before yesterday, June 11, 1958, one of our great Congressional leaders, the Honorable CLARENCE CANNON, was the recipient of an honorary doctor of laws degree from Southeastern University here in Washington.

Representative CANNON is the dean of the Missouri Congressional delegation. Over the years his leadership, his advice, his steadfast devotion to the security and progress of our Nation, and his hard work on behalf of his constituents, have endeared him to all of us in Missouri. Therefore, we are pleased that this fine university in the Nation's Capital has recognized this great American.

Mr. President, I ask unanimous consent that the citation of achievement which was read at the degree presentation by Mr. William B. Wolfe, Jr., trustee of Southeastern University, be printed at this point in the RECORD.

There being no objection, the citation was ordered to be printed in the RECORD, as follows:

THE HONORABLE CLARENCE CANNON, MEMBER OF CONGRESS, NINTH DISTRICT OF MISSOURI

Mr. President, fellow members of the board of trustees, I have the very great honor and personal pleasure to present this candidate for the honorary degree of doctor of laws. He is the Honorable CLARENCE CANNON, Member of Congress, Ninth District of Missouri.

He was born April 11, 1879, in Elsberry, Mo. He was graduated from La Grange College, William Jewell College, and the University of Missouri. He has received honorary doctor of laws degrees from William Jewell College, Culver-Stockton Colege and the University of Missouri. He is a former professor of history at Stephens College, Columbia, Mo. He has been admitted to State and Federal bars. He is the editor of the Manual and Digest of the House of Representatives; and is the author of Synopsis of the Procedures of the House of Representatives; Cannon's Manual (which is published by resolution of the House of Representatives); Convention Parliamentary Manual (which is published by the Democratic National Committee); Cannon's Precedents of the House of Representatives (which is published by law); and treatises on parliamentary law contained in the Encyclopedia Britannica and in the Encyclopedia Americana. He is the editor and compiler of the precedents of the House of Representatives, by act of Congress; he is a Regent of the Smithsonian Institute and is parliamentarian of the Democratic National Committee as well as parliamentarian at their national conventions.

Congressman CANNON has served in the Congress of the United States since 1923, a total of 35 years. He is chairman of the Committee on Appropriations, United States House of Representatives, and has held this post since 1941 except during the times that the House was controlled by the Republican Party. This committee, as you know, is one of the key committees of Congress, particularly where the operations of the Federal Government are concerned. In connection with the operations of the Federal Government, Southeastern University has recognized the outstanding service to the United States by its career employees by granting honorary degrees of doctor of laws in recognition of outstanding and devoted service to the United States Government.

This man, of course, is not a career employee of the Government but is an elected official. His service to our country, like the service of so many of our elected officials, has been so outstanding as to cause us to honor him tonight with the honorary degree of doctor of laws.

The pages of our history are filled with the deeds of great men and women from all walks of life who have served our country, each in their own way.

We have had our Washingtons, our Lincolns, our Patrick Henrys, our Molly Pitchers and countless others. Throughout our history we have had great patriots serving in the Congress of the United States. Today in these critical times, as in the past, we have devoted men and women serving in this great branch of our government. I sometimes wonder, however, if we fully realize how hard our Senators and Congressmen actually work. We, as Americans, can visit and see our Congress in session. We can sit in the galleries and listen to their debates; we can read from the CONGRESSIONAL RECORD what they have said and how they have voted; but this is only viewing a very small part of the total picture. To complete this picture, we have to consider the countless hours that they spend in committee meetings—the many hours that are spent on research—the many hours that are spent in serving their constituents back home and finding out how they feel about the issues of the day—and finally, the many hours of soul-searching that may result in only one word—spoken on the floor of the House or Senate and appearing in the CONGRESSIONAL RECORD—an aye or nay voting for or against a bill.

Tonight we are paying tribute to one of our great legislators, but in a larger sense we are also paying tribute to every man and to every woman in our Congress through him. A former Prime Minister of Great Britain, Sir Winston Churchill, paid tribute to the Royal Air Force in 1941 by saying, "Never in the field of human conflict was so much owed by so many to so few." I should like to change this as our tribute to all the men and women that serve so nobly in the United States Congress. To them I say—"Never have so few done so much for so many."

Mr. CANNON is revered and respected by all that know and associate with him, irrespective of which of the two great political parties they may embrace, because he has risen above the level of partisan politics.

To him the welfare of the United States come first, last, and always. Many of the distinguished friends and colleagues of Mr. CANNON from the United States House of Representatives are here tonight to join in our tribute to him and are seated in the front rows of the auditorium to my left. We received a letter from the 33d President of the United States—the Honorable Harry S Truman, and I should like to read it to you, now.

INDEPENDENCE, MO., *May 5, 1958.*

Mr. WILLIAM B. WOLFE, Jr.,
Member, Board of Trustees, Southeastern University, Washington, D. C.

DEAR MR. WOLFE: I am very disappointed that I will not be available on June 11, but I am happy that you are conferring an honorary degree on the Honorable CLARENCE CANNON, the chairman of the Appropriations Committee of the House.

Congressman CANNON and I have been good friends for all the many years we have known each other. He is a great legislator and one of Missouri's favorite sons.

Please congratulate him for me and tell him I am more than sorry that I cannot be present when he receives this high honor.

Sincerely yours,

HARRY S TRUMAN.

There are so many great things that he has accomplished in his lifetime of service to our country—in fact, so many that if they were listed they would fill many volumes. Maybe I should tell you of the billions and billions of dollars Mr. CANNON and his associates on the Appropriations Committee have saved us as taxpayers; maybe I should tell you about the dominant role he has played in the improvement of financial management and budgeting in the Federal Government to the end result of a more efficient service in return for each tax dollar appropriated and spent; maybe I should tell you about the nights—the Saturdays and Sundays—spent in accomplishing the vast volume of work in his office. Perhaps I should tell you of his interest in higher education and of the foundation which bears his name and which he endowed to aid needy men and women in acquiring an education; perhaps I should tell you of his work in the Baptist church. I shall not talk of all these facets of his distinguished career. I should rather tell you just two things about him—the first he regards as having been the most important part of his life. Throughout his entire career there has been a person at his side, sharing all of his triumphs, suffering all of his trials and tribulations, providing him with a wealth of love and understanding. That person is his lovely wife, the former Ida Dawson Wigginton. They were married in 1906 and have two daughters, Ida Elizabeth and Ruby Melinda. To really see this great man smile, all you have to do is start talking about his granddaughter and four grandsons. The devotion between this man and woman and the love he has for his children and grandchildren tell more about his basic character than I could ever state in words.

I have always considered that you can judge a man by the little things he does, because therein is the real key to his character, his integrity, his basic morality and honesty. All Senators and Congressmen, as you know, have franking privileges for mailing letters and other documents in connection with their official business. When Mr. CANNON replied to our letter in which we notified him that he had been selected to receive this degree, he did not consider this as being in the realm of "official" business and, therefore, he affixed a 3-cent stamp to the envelope. A small thing—yes; a very small thing; so small, in fact, what difference would it have made if he had not used a stamp for this letter but had sent it under his franking privilege? His basic honesty would not let him do so. By the small things a man does, so may we judge his basic character.

Mr. President, on behalf of the board of trustees of this university, I present to you the Honorable CLARENCE CANNON, Member of Congress from the Ninth District of the great State of Missouri—a gentleman, scholar, churchman, author, educator, humanitarian, farmer, legislator, and outstanding public servant—for the honorary degree of doctor of laws. Mr. CANNON.

THE STRATEGIC AIR FORCE—LACK OF ADEQUATE TRAINED PERSONNEL

Mr. SYMINGTON. Mr. President, seldom does a week go by without one of the heads of this Government or of another government of the Free World stressing the fact that the great deterrent to Communist aggression—in effect, therefore, the greatest deterrent to future war—is the Strategic Air Force of the United States. Each time when the Communists give new evidence of their technological superiority, from the President down that is our reply.

Therefore, I believe the American people should realize that last year 70 percent of the airmen of SAC had been in SAC less than 2 years, and this year 75 percent of the airmen in SAC have been in SAC less than 2 years.

More than 50 percent of SAC airmen are in their first enlistment.

In the past 4 years SAC has lost 111,214 airmen.

It is estimated that the average cost of training and maintaining one airman for 4 years is $19,779, or an average of about $5,000 a year.

Assuming that the 111,214 men who left SAC during the 4-year period referred to averaged 2 years of service, the cost of training and maintaining them for that period would be about $1,112,140,000.

Then, the process has to be done all over again, and at least another $1,112,140,000 must be spent for training and maintaining their replacements for another 2 years.

LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT OF 1958

The Senate resumed the consideration of the bill (S. 3974) to provide for the

reporting and disclosure of certain financial transactions and administrative practices of labor organizations and employers, to prevent abuses in the administration of trusteeships by labor organizations, to provide standards with respect to the election of officers of labor organizations, and for other purposes.

Mr. HOLLAND obtained the floor.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. HOLLAND. Mr. President, I ask unanimous consent that I may yield to the Senator from Arkansas without losing my right to the floor.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Florida? The Chair hears none, and it is so ordered.

Mr. McCLELLAN. I thank the distinguished Senator from Florida for yielding to me for some brief remarks.

Mr. President, the able junior Senator from Arizona [Mr. GOLDWATER] in his remarks earlier this morning referred to statements I have made from time to time with respect to labor legislation and the work of the Senate Select Committee on Improper Activities in the Labor or Management Field.

The Senator from Arizona quoted from a statement I made on a radio program some 2 weeks ago, on what is known as the Manion Forum. The Senator referred to nine items which I listed, relating to conditions which had been exposed by the select committee.

As I followed the remarks of the distinguished Senator from Arizona when he was quoting from the statement I had made with respect to the exposures of the select committee, I checked the items. Of the 9 I had mentioned, the bill which is presently before the Senate definitely deals with 6. There is one I am not sure could be dealt with by Federal legislation.

The third item I listed referred to vandalism, violence, or threats of physical harm to employers, employees, union members, and their families. A question would arise whether the Federal Government should go into that field and make such actions Federal crimes. I have not made any positive determination about that in my own mind. The bill evidently does not deal with those particular conditions, which the committee has exposed.

The sixth item related to the calling of strikes and the making of "sweetheart" contracts with management without the knowledge and approval of rank and file union members. The pending bill does not deal with that subject.

During the consideration of the bill by the committee, from the time I received the first draft of the proposed legislation until the bill was finally reported, I made a number of suggestions to the committee with respect to provisions which I thought the bill should contain. That was one of the suggestions. That is one of the three things which I suggested to which the committee did not respond favorably.

Comparing the bill as reported with the first draft, I find that the Committee on Labor and Public Welfare was very considerate of my suggestions and recommendations. I find in the bill today 22 changes from the original draft. Those changes are in line—either fully or in part—with suggestions which I made.

The ninth area which I said we had covered deals with organizational picketing to force employees to join a union against their choice, and to compel management to coerce its employees into doing so. I urge that that subject be covered in this bill.

I urged that a provision in a bill which I had introduced be incorporated in the pending bill. That provision would definitely prohibit organizational picketing until there had been an election, or until two-thirds of the employees had definitely indicated, by petition or otherwise, that they wanted a union. The committee rejected that suggestion.

I did not get everything I wanted. Everything I want is not in the bill. I think I could strengthen the bill if I could sit down and write it myself. I think I could improve upon it. No doubt every other Senator feels the same way. Each Senator, no doubt, feels that if he were privileged to write it he could improve on this measure.

However, we are dealing with one of the most sensitive, technical, and difficult areas in which to legislate. We can load the bill down with many things which I favor, and for which I shall continue to fight. We can load the bill down with provisions which other Senators want, and the result will be that we shall have no legislation at all, in my judgment, at this session of the Congress.

If we were to approve the first five titles of the bill, I believe there would be a good chance of enacting it into law. If we will do that, I believe we would be making constructive progress toward the legislation which is needed in the labor-management field.

I need not describe to Senators the atmosphere in which we are working here during an election year. Each of you are fully conscious of it. This session of Congress is not a "last chance drug store." There will be another session of Congress next year. I should like to see the first 5 titles of the bill, with certain strengthening amendments, enacted, so that the bill would actually do what we want to do in the areas covered by the first 5 titles. Then we would know we are making progress.

I have certain ideas which are embodied in proposed legislation which I have introduced. Some of the provisions in those bills are highly controversial. If we add 5 or 6 highly controversial amendments to this bill, some Senators will support 2 or 3 of them and oppose the remainder, which means they would vote against the bill. The safest way and the best way to legislate in this field is to enact into law provisions designed to cover the areas with respect to which no honest man can object—in the area in which we are trying to protect union funds; the area in which we are trying to deal with corruption and illegal and improper practices; and the area in which we are trying to bring back to rank-and-file members a substantial measure of democratic processes. Let us enact such provisions into law now. That will be making constructive progress toward our goal.

At the next session of Congress—if there were time at this session, I would undertake to do it now—if I can get action from the Committee on Labor and Public Welfare, I should like to have various controversial provisions considered separately and voted up or down, on their merits. I know that there is a way to bring a bill to the floor of the Senate if we cannot get the Labor Commitee to act. All I am pleading for is that we not jeopardize legislation to which everyone should subscribe by insisting on putting in the bill highly controversial amendments which would result in no legislation at all. To do so will defeat our own purpose.

Mr. KENNEDY and Mr. WATKINS addressed the Chair.

The PRESIDING OFFICER (Mr. PURTELL in the chair). The Senator from Florida [Mr. HOLLAND] has the floor. Does he yield, and if so, to whom?

Mr. HOLLAND. Mr. President, I have the floor. I ask unanimous consent that I may be allowed to yield to the Senator from Massachusetts for the purpose of addressing a question to the Senator from Arkansas.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the Senator from Massachusetts may proceed.

Mr. KENNEDY. Mr. President, I congratulate the Senator from Arkansas for his statement. He has placed the issue in proper perspective.

We sat here from 1947 to 1958 without any amendments to the Taft-Hartley Act going through either the House or Senate, for the very reason which the Senator from Arkansas has cited. This is an issue on which people feel so strongly that they want to amend legislation to suit themselves. The result is that we cannot obtain a concensus in the Senate or House with respect to labor legislation, and no action is taken.

In 1953 and 1954, when Senator Taft and the Republicans were in the majority, there were a good many amendments which he was desirous of having written into law. A bill was brought to the floor of the Senate, but it had to be recommitted.

We now have before us a bill which has some reasonable prospect of being enacted into law. The bill may not go as far as some Senators desire. I believe that it would be unwise to jeopardize the work which the Senator from Arkansas and his committee have done in connection with a bill to which he has given his support, by insisting upon certain amendments merely because all of us are so strongminded that our amendments must be accepted or we will not support the bill.

The bill is in danger of going down to defeat. If Senators insist upon controversial amendments, we shall know where the responsibility lies.

I believe that the Senator from Arkansas deserves a great deal of credit for the work he has done.

Mr. WATKINS. Mr. President, will the Senator from Florida yield to me?

Mr. HOLLAND. Mr. President, I ask unanimous consent that I may yield to the Senator from Utah to enable him to address a question to the Senator from Arkansas.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the Senator from Utah may proceed.

Mr. WATKINS. Mr. President, I have a great deal of respect for the judgment of the Senator from Arkansas in matters of this kind. I have been a Member of this body for nearly 12 years. The first year I was here the late great Senator George of Georgia, made a speech at the time the Senate was considering overriding the Truman veto of the Taft-Hartley bill. He said, "If we do not do something now, we may never be able to get any action in this field, in which reforms have been imperative for a long time."

He told the Senate that he had voted for the Wagner Act. From that time until the Taft-Hartley bill was considered by the Congress, passed, and vetoed, nothing was done. That was the first opportunity there was to get any action from the Committee on Labor and Public Welfare.

Mr. KENNEDY. The Senator is incorrect. There was a bill before the Senate in 1954.

Mr. WATKINS. I remember that; but it was recommitted. There was no relief.

It is a difficult matter to obtain action from the committee. In 1957 I introduced a bill dealing with the no-man's land situation, an area with respect to which there ought to be almost unanimous agreement in Congress. Both management and labor need reforms in that area.

Did I get anywhere? The committee would not call a hearing or do anything about it, until the recent hassle which developed while we were considering another piece of labor legislation.

I ask the Senator in all good faith if he believes that, in the future, we will get from the Labor and Public Welfare Committee anything which the labor unions do not want? I mean as the committee is presently constituted.

Mr. McCLELLAN. The Senator should address that question to his colleagues who are members of the Committee on Labor and Public Welfare. I do not believe I should be called upon or required to answer for them. However, I will say to the Senator that if we do not get from the committee what we want, we can take it away from them, if we have the courage to stand up for our convictions; and if they are not willing to perform their functions, we have the power to take a bill from them and bring it to the floor. I do not desire to criticize any of the members of the committee for disagreeing with me. Most of them disagree with me on some of the things I want.

Here again, are we going to load the bill down with amendments? It would be possible to load the bill down with amendments so that even I would be compelled to vote against it. We could load it down with amendments which would force other Senators to vote against it.

I say let us take what we know all of us want, and pass the bill, and then move on. I say to the Senator, without any reservation, that I intend to fight for additional legislation in this field. If I become convinced that the Labor and Public Welfare Committee will not move or is being dilatory and is not trying to go into other areas, I will join with the Senator from Utah and other Senators in a motion to take the bill from the committee.

Mr. WATKINS. The Senator from Arkansas has been the chairman of the committee which has been investigating labor conditions and the charges which have been made in connection therewith. Yet very little is being said about getting any reforms in the labor field. When the investigation was under way, conditions were revealed which showed that a good many changes should be made in the labor act. The late Senator George said that reforms were indicated at that time. I do not like to have the Senate act on the proposed legislation without enacting some of those very much needed reforms.

Mr. McCLELLAN. We are getting some. We are not getting all of them, or all that I want.

Mr. WATKINS. We should get more.

Mr. McCLELLAN. Perhaps we should get more. However, let us be practical. Should we not want to take what all of us know we can get, and go ahead and pass the bill?

Mr. WATKINS. We should press for more, and get it, too.

Mr. McCLELLAN. I am not saying that we cannot get anything else. However, let us get what we know we can, without risking the loss of everything.

Mr. HOLLAND. Mr. President, I have agreed to yield to the Senator from Colorado. I ask unanimous consent that I may yield to him provided that I do not lose the floor.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the Senator may proceed.

Mr. McCLELLAN. May I conclude my statement?

Mr. HOLLAND. I have agreed to yield to the Senator from Colorado at this point.

Mr. ALLOTT. The Senator was yielding to me for another purpose. However, I should like to ask the Senator from Arkansas two questions.

Mr. HOLLAND. I ask unanimous consent that I may yield to the Senator from Colorado for such purpose.

The PRESIDING OFFICER (Mr. PURTELL in the chair). Is there objection? the Chair hears none, and it is so ordered.

Mr. ALLOTT. I have before me the interim report, and at this time I should like to compliment the distinguished Senator from Arkansas on that report. This is the first opportunity I have had to do so.

In the report, action is recommended in three areas, with reference to which, however, no action is being taken in the bill before the Senate. The first is in the field of "no man's land." The second is the fiduciary status of union officers, which, by the way, was included in S. 2888, which the Senate passed some time ago. The third has to do with secret elections on vital union affairs in addition to the election of officers.

I wish to ask the Senator from Arkansas if he believes these three areas, and the suggested amendments which no doubt will be offered in these fields, constitute anything but moderate approaches to labor legislation.

Mr. McCLELLAN. If I understood the Senator, he mentioned three areas, one the reform in the "no man's land" area, and the other two——

Mr. ALLOTT. "No man's land," secret ballots in elections on vital union affairs in addition to the election of officers, and the fiduciary status of union officers.

Mr. McCLELLAN. I have very definitely favored covering those subjects. I introduced a bill accordingly, as the Senator well knows, and I should like to have my bill reported and passed. However, I am again being practical, that is all. I recommended to the committee that it write into the pending bill a provision requiring a secret ballot before calling a strike. The committee rejected the proposal. If we were to add that amendment to the bill, even if we should be able to have it agreed to, we could bring about some complications which would be detrimental to the passage of the whole bill.

Mr. ALLOTT. That particular question is a very controversial one.

Mr. McCLELLAN. Yes.

Mr. ALLOTT. In the three areas I have suggested, is there any reason why the Senate, at the time it is considering this proposed legislation, should not consider those three items to which the Senator referred in his report?

Mr. McCLELLAN. There is no reason.

Mr. ALLOTT. I believe he said the proposals made provided a very moderate approach.

Mr. McCLELLAN. There is no reason, so far as I am concerned. Personally, I should like to see every one of those reforms adopted.

Mr. IVES. Mr. President, will the Senator from Florida yield to me?

Mr. HOLLAND. I ask unanimous consent that I may yield to the Senator from New York without losing the floor.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the Senator from New York may proceed.

Mr. IVES. Mr. President, I thank the distinguished Senator from Florida.

I wish to comment first, if I may, on what the great Senator from Arkansas has just said. At least we have had a speech which is practical. The Senator from Arkansas has told the truth. He has issued a warning to the Senate, which the Senate should heed. It is a warning which he himself has followed.

The proposed legislation, as it stands before the Senate, is not wholly satisfactory to the Senator at all, I venture to say, knowing him as I do. It is not wholly satisfactory to me. It is not wholly satisfactory to anyone, so far as I know. That is what we get when we deal in this kind of controversial field.

That is what we must expect when we come to legislate in this whole area itself.

I wish to commend the Senator for what he has said. In the first place, I praise the Senator from Arkansas for the attitude he has taken in connection with the whole matter as chairman of the select committee. I have praised him before, and I now reiterate what I have said in the past. He has been a grand chairman—probably the greatest chairman I have ever known in connection with any committee—and I have known a good many fine chairmen.

Mr. McCLELLAN. Well——

Mr. IVES. I mean it. I am not kidding. The Senator has done a grand job. He has been fair. He has acted as a good judge should act. So far as I know he has received no criticism whatever from the people. He has produced a record which has made a tremendous impression upon the public, and the public is rising up and demanding legislation. The public has a right to demand legislation. I am with the public in that demand.

I do not know what is the matter with Congress that it does not heed the Senator. But in all these matters, we must be practical, as the Senator from Arkansas has pointed out. We can go only so far. I, too, have offered a program of legislation, very little of which is included in the pending bill. I would like to see it enacted. Some of my proposals go a great deal farther than what is included in the bill, just as is the case with some of the bills which have been offered by the Senator from Arkansas. However, we realize that we cannot do everything at this time. If we were to undertake to do so, as the Senator has pointed out, we would get into the bill material which is controversial from the standpoint of many Senators, and in the end we would find an overwhelming majority in the Senate opposed to the whole bill. We would meet the same opposition we encountered in 1953, only more so. I shall vote for the bill.

I have an amendment I should like to offer, but I do not expect to offer it. I believe heartily in what that amendment contains. It is an amendment to make discriminations in employment an unfair labor practice. It should have been in the Taft-Hartley Act to start with. I have never tackled it. I have never undertaken to propose it, because I have realized how controversial it is, and I do not want to plague some of my good friends from the South by offering it. That is exactly why I have not presented it. I do not intend to offer it.

But if there is placed in the bill something which some of us cannot swallow, which will mean that the bill will get nowhere in the House of Representatives, then perhaps I will do what I personally want to do, and not yield, as I am yielding now, about a provision which I think should be in the bill.

Again, I commend the Senator from Arkansas.

Mr. HOLLAND. Mr. President, has the Senator from Arkansas concluded his statement?

Mr. McCLELLAN. Mr. President, I shall have concluded in 1 minute. I thank the distinguished Senator from New York for his complimentary references to the work I have tried to do as chairman of the select committee. His praise is beyond what I deserve. I have worked hard to perform what is not a pleasant task. But I have had the cooperation of my colleagues on the committee. It is because we have tried to work as a team that we have been able to hold the committee together and to expose that which is rotten.

I shall likely be misunderstood by some for the position I have taken on this proposed legislation. I shall get some criticism from sources from which I would rather not be criticized. But I have to make a decision, and I have made it. If temporary criticism is to deter me from taking a course of action which I am convinced is imperatively necessary to secure the remedial legislation which is in the bill, then I shall have to subject myself to such temporary criticism and, perhaps, misunderstanding.

But knowing that I am doing what is right and best in my effort to get the most of what is good, I do not intend to turn back. I shall fight to get the crooks out of the labor movement. I shall fight to keep them from being elected as officers and representatives of unions. I shall fight for the democratic processes, so that union members can have a choice in their elections of officers.

I shall fight beyond this bill, but I am going to fight to get this much now. The sooner we get it, the sooner we will be serving the notice which should be served on the gangsters, racketeers, and unreformed exconvicts who have in some places seized the reins of the labor movement and have used labor unions for their personal gain and profit and for the exploitation of working men and women who belong to labor unions.

Let us get this much now. We can do it if we do not wreck the bill.

Mr. HOLLAND. Mr. President, I have agreed to yield to the Senator from Colorado [Mr. ALLOTT] for another purpose. I ask unanimous consent that I may yield to him for that purpose, with the understanding that I shall retain my place on the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLOTT. Mr. President, the amendment offered by me last night is still being worked upon with some modifications. I withdraw the amendment at this time, but with the intention of presenting it a little later in the day.

The PRESIDING OFFICER. The amendment of the Senator from Colorado is temporarily withdrawn.

Mr. CURTIS. Mr. President, will the Senator from Florida yield?

Mr. HOLLAND. Will the Senator be brief? I must keep an appointment shortly.

Mr. CURTIS. I have 2 or 3 questions I wish to propound to the Senator from Arkansas.

Mr. HOLLAND. Mr. President, I yield briefly to the Senator from Nebraska for that purpose, provided I do not lose my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CURTIS. I wish to ask my very distinguished chairman about some matters in the bill which were not included in the scope of the hearings of the select committee. I refer to the present language in section 602, the "no man's land" provision. I think it would be very helpful if we knew how the distinguished chairman feels concerning the so-called "no man's land" provision in the bill.

Mr. McCLELLAN. Mr. President, as the Senator will recall, in my remarks I said that I was interested in titles 1 to 5. That is the proposed legislation which interests me. I have made no final commitment either way on title 6. I need to study it more. I am not exactly sure what it provides. It was included by the Committee on Labor and Public Welfare. It was not in accordance with the suggestion I made.

Mr. CURTIS. Is the same statement true with respect to section 605?

Mr. McCLELLAN. My statement applies to all of title 6.

Mr. CURTIS. That section relates to economic strikers.

Mr. McCLELLAN. I am referring to all of title 6. Titles 1 to 5 are acceptable. In those areas, I should like to have legislation at this session of Congress.

Mr. CURTIS. I agree; but I think some of the other provisions in the bill are definitely bad.

Mr. McCLELLAN. I have not said that some things in the bill could not be called bad; I have spoken only with reference to titles 1 to 5.

Mr. CURTIS. I thank the Senator from Arkansas, and I thank the Senator from Florida.

Mr. HOLLAND. Mr. President, the distinguished Senator from Ohio [Mr. LAUSCHE] has requested that I yield to him so that he may ask a question of the Senator from Arkansas. I ask unanimous consent that, without losing my right to the floor, I may yield to the Senator from Ohio for that purpose.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUSCHE. Mr. President, I have observed that the Senator from Arkansas confined his remarks to the first 5 titles. I inferred from that that he has grave question about the wisdom of having the sixth title in the bill.

Mr. McCLELLAN. Let me answer in this way: I am not an expert in labor legislation. As the Senator from Ohio knows and can appreciate, I have been a very busy man. I have not had the opportunity to study title VI. It is not in the bill at my request; it is there through the exercised judgment and wisdom of the Committee on Labor and Public Welfare. I am not attacking it at the moment; neither am I defending it. I am simply saying that I am not prepared to make a committal on it.

Mr. LAUSCHE. I observed that last night the Senator from Arkansas voted for the elimination from the bill of the provision which changed the definition

of "supervisor." That provision was in the sixth title of the bill.

Mr. McCLELLAN. If I clearly understood what that section did, I might be for it. But I have not been able to inform myself with regard to it. I shall vote for the bill, unless something shall be included in it which I simply cannot accept. There is another House which will consider the bill, too.

Mr. LAUSCHE. What I am disturbed about is that the committee followed the Senator from Arkansas with respect to the first 5 titles——

Mr. McCLELLAN. I would not say they followed me. They did accept recommendations.

Mr. LAUSCHE. And they added a sixth title; and the sixth title does not in any way strengthen the Taft-Hartley Act where it should be strengthened, but only weakens it.

I commend the Senator from Arkansas for his noble and fearless work in leading the select committee. I am certain that if it were within his power, there would be legislation which would cope with the whole gamut of problems produced by the investigation.

Mr. McCLELLAN. I thank the distinguished Senator from Ohio.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. HOLLAND. Mr. President, upon the same condition, that I do not lose my right to the floor, I ask unanimous consent that I may yield to the Senator from Massachusetts.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I may say, in answer to the Senator from Ohio, who was concerned that the sections of the bill followed the recommendations of the McClellan committee up to title VI, which includes the so-called amendments to the Taft-Hartley Act, that when the Knowland amendments were offered certain amendments were presented by the Senator from New Jersey [Mr. SMITH] for the administration. Those amendments related to the Taft-Hartley Act. I agreed, as a part of my understanding with the Senate, that we would report a bill which would consider not only the recommendations of the McClellan committee, but also the recommendations of the administration with respect to the Taft-Hartley Act. That is the reason why they were included; and the language is the administration's language in regard to amendment of the Taft-Hartley Act.

Mr. LAUSCHE. But let me say that the final draft of this title is not in conformity with the recommendation of Secretary Mitchell or with the recommendation——

Mr. KENNEDY. Will the Senator from Ohio tell me why it is not?

Mr. LAUSCHE. The bill as reported reduces the time in which a worker may join a union or be compelled to join a union from 30 days to 7 days.

Mr. KENNEDY. But that was in the Secretary's recommendation.

Mr. LAUSCHE. In his recommendation there was a provision that no bargaining agreement shall be made without the approval of the workers, except where there was a prior history showing the relationship between the employer and the union.

I shall not go into the matter at this time; but on page 19 I think it will be found that the draft of the pending bill is not in conformity with the recommendation of the Secretary of Labor.

Mr. KENNEDY. We can discuss that later; but I merely state now that I think the Senator from Ohio is in error.

Mr. HOLLAND. Mr. President, I always wish to be courteous to my colleagues, and I have tried to be so today, but as most Members know, there is a Senate-House conference on the commerce appropriation bill which I must attend this afternoon. So at this time I should like to submit my amendments and discuss them briefly, and then I shall yield for questions.

Mr. President, I offer the amendments which I send to the desk and ask to have stated.

The PRESIDING OFFICER. The amendments will be stated.

The CHIEF CLERK. On page 40, between lines 23 and 24, it is proposed to insert a new section, as follows:

SEC. 608. Section 14 of the National Labor Relations Act, as amended, is amended by adding at the end thereof a new subsection, as follows:

"(c) (1) Nothing in this act or the Labor-Management Relations Act, 1947, shall be construed to nullify the provisions of any State or Territorial law which regulate or qualify the right of employees of a public utility to strike, or which prohibit strikes by such employees.

"(2) As used in this subsection the term 'public utility' means an employer engaged in the business of furnishing water, light, heat, gas, electric power, or passenger transportation services to the public."

On page 40, line 24, strike out "608" and insert "609."

On page 42, line 3, strike out "609" and insert "610."

On page 42, line 23, strike out "610" and insert "611."

On page 43, line 14, strike out "611" and insert "612."

The PRESIDING OFFICER. (Mr. LAUSCHE in the chair). The question is on agreeing to the amendments of the Senator from Florida.

Mr. HOLLAND. Mr. President, I offer the amendments on behalf of the distinguished junior Senator from Virginia [Mr. ROBERTSON] and myself. We offer the amendments in the earnest hope that finally Congress will act to fill this particular legal "void"—or labor-management "no man's land"—which fails to assure the continued operation of local public utilities, which dangerous situation was created on February 26, 1951, by a strained interpretation, by the United States Supreme Court, in the so-called Wisconsin case, construing the legislative intent in the passage of the Taft-Hartley Act.

In less than 3 months after that Supreme Court decision was handed down, a bipartisan effort was begun in the Senate to correct the unfortunate situation created thereby. Republican Senators Wiley, of Wisconsin, and Hendrickson, of New Jersey, together with Democratic Senators Robertson, of Virginia, and myself, introduced, on May 23, 1951, Senate bill 1535 of the 82d Congress. Unfortunately that bill never saw the light of day, but died in the Senate Labor and Public Welfare Committee without being accorded a hearing.

In the following Congress, the 83d, a corrective proposal was again before the Senate Committee on Labor and Public Welfare in an omnibus labor bill, S. 2650, which was considered by the committee, and was favorably reported. However, it will be recalled that, due in large part to the fact that three FEPC amendments were pending, under a unanimous-consent agreement limiting debate, the Senate, by a vote of 50 to 42, recommitted that bill. Although I found much to approve in Senate bill 2650—particularly in the section dealing with strikes in public utilities—I voted with the majority to recommit the bill, because of the unfavorable parliamentary situation which required the consideration of FEPC legislation under a gag rule.

Senate bill 2650, as reported from the Senate committee, contained the following language:

(c) Nothing in this act shall be construed to interfere with the enactment and enforcement by the States of laws to deal in emergencies with labor disputes which, if permitted to occur or continue, will constitute a clear and present danger to the health or safety of the people of the States.

During the debate on that measure, I questioned at length the senior Senator from New Jersey [Mr. SMITH], then chairman of the Senate Committee on Labor and Public Welfare, concerning the purpose of that proposed language. I specifically asked the distinguished Senator from New Jersey if it were his understanding that that provision was designed effectively to return to the States the power, authority, and jurisdiction to deal under State laws, and under machinery provided under State laws, with work stoppages, strikes, threatened strikes, lockouts, or anything which would tend to bring about a stoppage of the rendition of services by public utilities to the people of States or communities within States. The Senator from New Jersey replied:

In preparing this particular paragraph the committee felt that utilities certainly would be included, because utilities usually could affect the health or safety of the people.

In his January 11, 1954, message to the Congress on labor-management relations, President Eisenhower called attention to the problem at hand, and recommended correction, in the following manner:

The act should make clear that the several States and Territories, when confronted with emergencies endangering the health or safety of their citizens, are not, through any conflict with the Federal law, actual or implied, deprived of the right to deal with such emergencies. The need for clarification of jurisdiction between the Federal and the State and Territorial Governments in the labor-management field has lately been emphasized by the broad implications of the

most recent decisions of the Supreme Court dealing with this subject.

Of course, the President was referring to the decision of the Supreme Court in the Wisconsin case.

On June 18, 1955, in the 1st session of the 84th Congress, Senator ROBERTSON and I again introduced a bill, S. 527, designed to correct this situation. Again our proposal received no attention.

This year we introduced Senate bill 3692, thus making this the fourth Congress in a row that such a proposal has been before the Congress, though the problem is still with us. And we have never had a report from the committee, either favorable or unfavorable, on this particular proposal.

Mr. President, as I stated earlier, this amendment was made necessary by the interpretation of the National Labor Relations Act, as amended by the Labor-Management Relations Act of 1947, by the Supreme Court of the United States in the so-called Wisconsin case—*Amalgamated Association of Street Electric Railway and Motor Coach Employees of America, Division 998, et al.* v. *Wisconsin Employment Relations Board* (340 U. S. 383, 71 S. Ct. 359, 95 L. ed. 354)—dated February 26, 1951. The net result of the majority opinion in that case was that a Wisconsin statute which prohibited strikes against public utilities, and provided for compulsory arbitration of labor disputes after an impasse in collective bargaining has been reached, was invalid, because it was held to be in conflict with the National Labor Relations Act, as amended.

I have studied the case rather carefully; and I find myself in complete agreement with the strong dissenting opinion written by Mr. Justice Frankfurter, and joined in by Mr. Justice Burton and Mr. Justice Minton. In other words, the Court was not unanimous in its decision; and the three Justices I have mentioned strongly dissented from the majority opinion, and held that the States had not been precluded from their right, under their police powers and their statutes, to deal with threatened closures or stoppages of public-utility services.

I feel—as did the principal Senate author of the act in question, the late Senator Robert A. Taft—that the majority of the Court came forward with a highly strained interpretation of the intent of Congress in the passage of the Taft-Hartley Act of 1947, and one which was never anticipated by its sponsors. Senator Taft made no secret of his complete disagreement with the majority opinion, and personally expressed himself strongly to me on the subject on several occasions. His comments in this regard were of particular interest to me in view of the fact that both the majority and the dissenting opinions refer to some of the same comments made by Senator Taft during the 1947 debate, in support of their interpretation of the legislative history of the Taft-Hartley Act.

Also, it is clear from the record that another coauthor of the bill, former Representative Hartley, had a completely different interpretation of the intent of the bill from that ascribed to it by the Supreme Court. I quote the following from the CONGRESSIONAL RECORD of June 4, 1947, volume 93, part 5, page 6383, from the debate which occurred at that time in the House of Representatives:

Mr. KERSTEN of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. HARTLEY. I yield.

Mr. KERSTEN of Wisconsin. I wish to compliment the gentleman on the very fine exposition he is making of the conference report. I would like to ask the gentleman about that portion which pertains to the validity of State laws. Wisconsin and other States have their own labor-relations laws. We are very anxious that disputes be settled at the State level insofar as it is possible. Can the gentleman give us assurance on that proposition, so that it is a matter of record, that that is the sense of the language and of the report?

He is speaking of the conference report which became the final act after the President's veto had been overridden.

Mr. HARTLEY. That is the sense of the language of the bill and of the report. That is my interpretation of the bill, that this will not interfere with the State of Wisconsin in the administration of its own laws. In other words, this will not interfere with the validity of the laws within that State.

Mr. KERSTEN of Wisconsin. And it will permit as many of these disputes to be settled at the State level as possible?

Mr. HARTLEY. Exactly.

It is difficult for me to understand how anyone could conceive of Congress intending to preempt for the Federal Government a field of such vital importance to the general public—which had been entered by many local and State governments—without providing a substitute for local procedure, under an act which contained in its declaration of policy the statement—and I now quote from the declaration of policy in the Taft-Hartley Act—"and above all recognize under law that neither party has any right in its relations with any other to engage in acts or practices which would jeopardize the public health, safety, or interest"; and also the words—and I quote again from the policy statement of the Taft-Hartley Act—"and to protect the rights of the public in connection with labor disputes affecting commerce." In my opinion, the majority opinion of the Supreme Court went completely contrary to the expressed declaration of policy in the act, without specific language in the body of the act to justify such a departure; and by this interpretation the Supreme Court accomplished in part what the act was trying to prevent, by declaring void all protective State laws dealing with strikes in public utilities and thereby permitting the public health and safety to be placed in jeopardy during public-utility strikes.

Congress made provision for threatened and actual strikes which would "if permitted to occur or continue, imperil the national health or safety," and provided authority for the President of the United States to set in motion investigatory and judicial processes which would at least prevent a work stoppage for a period of 80 days, during which conciliation, mediation, arbitration, and continued collective bargaining could operate to effect a settlement of the dispute. However, in the opinion of the majority of the Supreme Court, it left under the law a situation where the health, safety, and general welfare of the same people can be jeopardized without restriction when they are affected in smaller groups—that is, on a State or local level rather than a national level.

The dissenting opinion by Mr. Justice Frankfurter, concurred in by the other two Justices already mentioned, states clearly what I believe to be not only the proper interpretation of the intent of Congress in this regard, but the only reasonable and logical interpretation. Speaking for the minority of the Court Mr. Justice Frankfurter stated:

> But the careful consideration given to the problem of meeting nationwide emergencies and the failure to provide for emergencies other than those affecting the Nation as a whole do not imply paralysis of State police power. Rather, they imply that the States retain the power to protect the public interest in emergencies economically and practically confined within a State. It is not reasonable to impute to Congress the desire to leave States helpless in meeting local situations when Congress restricted national intervention to national emergencies.

Florida is one of the States which has had its laws dealing with this subject declared invalid as a result of this decision of the Supreme Court.

In 1947, by a vote of 33 to 0 in the State senate, and 74 to 12 in the house, the Florida Legislature passed a law requiring compulsory conciliation and arbitration when a stalemate has been reached in the collective bargaining process betwen employer and employee of a public utility, as defined in the act.

Briefly, Mr. President, the Florida law defines the term "public utility employer" as an employer engaged "in the business of rendering electric power, light, heat, gas, water, communication or transportation services to the public of this State," and then sets up a procedure to be followed when the collective bargaining processes reach an impasse and stalemate, which includes:

First. The appointment by the Governor of a conciliator who must effect a settlement within 30 days after appointment—an additional 15 days may be allowed by the Governor.

Second. If the conciliation effort is unsuccessful the Governor may appoint an arbitration board which must hand down its decision within 60 days after appointment—the Governor may for good cause extend that period 30 days.

Third. Within 15 days after the date of an order of the arbitration board, either party may petition the Circuit Court for a review of such order.

Fourth. Thereafter, any interested party may appeal to the Supreme Court of Florida.

Those were pretty reasonable conditions, and they were designed to be fair and reasonable to all concerned, and particularly to the general public, who have such a vital stake in having a continuance of such services as light, power, heat, gas, and the like.

The Governor may proceed with the action stated only after concluding that the dispute, if not settled, "will cause or is likely to cause the interruption of the supply of a service on which the community affected is so dependent that the hardship would be inflicted on a substantial number of persons by a cessation of such service."

From and after the filing of a petition for the appointment of a conciliator, and until and unless the Governor shall determine that the failure to settle the dispute with respect to which such petition relates would not cause severe hardship to be inflicted on a substantial number of persons, no interruptions of work and no strikes or slowdowns by the employees, and no lockout or other work stoppage by the employer, are permitted, until the statutory procedure has been exhausted or during the effective period of any order issued by the Board of Arbitration pursuant to the law.

I think Senators will be interested in the origin of the language contained in the Florida law, because it shows a willingness to work together on the part of the representatives of the public, unions, and employers—a willingness which I wish existed at this level of Government.

After a hearing had been held before a Senate Committee of the State Legislature of Florida on this subject, the committee requested labor and public utility officials to get together and come up with language for a bill, which was mutually satisfactory, and the bill which was unanimously passed by the Senate, and passed by an overwhelming majority in the House, as I have indicated, was drafted at a conference participated in by the chief counsel of the State federation of labor and the State president of the American Federation of Labor.

It is comforting to know that reasonable men from labor and management can still sit down and come up with effective and mutually satisfactory programs for the protection of the public health and safety when properly encouraged to do so, and that is exactly what happened with reference to this Florida law. With such cooperation from public spirited representatives of labor and management being exhibited concerning this subject in my State, it was indeed discouraging to have a United States Supreme Court decision result in our law being declared invalid by our State supreme court.

The Supreme Court of Florida, which rendered its decision on May 5, 1953, declaring invalid the Florida public utilities arbitration law, based its conclusion entirely on the decision of the United States Supreme Court in the so-called Wisconsin case.

Mr. President, I call attention to the 2 sets of tables which appear on pages 480 and 481 of the hearings. I shall not read from them, but they show that 17 States, including Florida and the Territory of Hawaii, have somewhat similar laws on this subject. Table No. 6 is entitled "Regulation of Disputes in Public Utilities, etc." Table No. 7 is entitled "Compulsory Mediation and Arbitration."

I ask unanimous consent that the two tables be printed in the RECORD at this point as a part of my remarks.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE 6.—*Regulation of disputes in public utilities, etc.*

State and date of law	Provision against strikes in—			Provisions for seizure
	Public utilities	Government service	Other essential industries	
Florida: 1947 (S. L. L. 19:231)	[1] X			
Hawaii:				
1949 (S. L. L. 21: 256)	X			
1949 (S. L. L. 21: 265)			Docks	X
Indiana: 1947 (S. L. L. 24: 158)	[1] X			
Kansas: 1920 (Gen. Laws Annot., sec. 44-601 to 608, S. L. L. 26: 245).	X		Industries affected with the public interest.[2]	[3] X
Maryland: 1956 (S. L. L. 30: 255)	X			X
Massachusetts: 1947 (S. L. L. 31: 257)	[4] X		Distribution of food, fuel, hospital, and medical services.[3]	X
Michigan: 1949 (S L. L. 32: 245)	[1 4] X		Hospitals [1]	
Minnesota:				
1947 (S. L. L. 33: 274)			Charitable hospitals	
1951 (S. L. L. 33: 272)		X	do	
Missouri: 1947 (S. L. L. 35: 211)	[5 6] X	X		X
Nebraska: 1947 (S. L. L. 37: 235)	X	X		
New Jersey: 1946, 1947, 1949, 1950 (S. L. L. 40: 221)	[3 7] X			X
New York: 1947 (S. L. L. 42: 267)		X		
North Dakota: 1943 (S. L. L. 44: 258)				X
Ohio: 1947 (S. L. L. 45: 234)		X		
Pennsylvania:				
1947 (SLL 48:251)	[1] X			
1947 (SLL 48:270)		X		
Texas:				
1947 (SLL 54:238)		X		
1947 (SLL 54:234)	[8] X			
Virginia:				
1946 (SLL 57:245)		X		
1950 (SLL 57:236)			Coal mines	X
1952 (SLL 57:215)	[9] X			
1952 (SLL 57:232)	[10] X			
Wisconsin: 1947 (SLL 60:248)	X			

[1] No strike until such time as all of the procedure provided for by law has been exhausted.
[2] The ban on strikes has not been exercised, since other features of the Kansas Industrial Relations Act were declared unconstitutional.
[3] No strike after the public utility has been taken over by the State.
[4] Act held unconstitutional by U. S. Supreme Court (26 L. R. R. M. 2082) as applied to an employer engaged in interstate commerce.
[5] No strike for 5 weeks after mediation fails and the governor has been notified.
[6] Act unconstitutional, in opinion of State attorney general (27 L. R. R. M. 69).
[7] No strike for 60 days after written notice of intention to strike to the board of mediation and the other party.
[8] No ban on strikes. Act provides penalties for picketing and sabotage.
[9] No ban on strikes. Provides for mediation of public utility disputes.
[10] No ban on strikes. Provides for temporary replacement of all employees who do not want to work for the Government during seizure.

TABLE 7.—*Compulsory mediation and arbitration*

State and date of law	Industries included	Provision for—	
		Compulsory mediation	Compulsory arbitration
Florida: 1947 (SLL 19: 231)	Public utilities	X	X
Indiana: 1947 (SLL 24: 158)	do	X	X
Kansas: 1920 (Gen. Laws, Annot., sec. 44-601 to 623, SLL 26: 245).	Industries affected with the public interest.	X	X [1]
Massachusetts: 1954 (sec. 3, SLL 33: 258)	Public utilities	X	
Minnesota:			
1955 (sec. 6, SLL 33: 223)	Any dispute, on petition of either party.	X	
1939 (sec. 7, SLL 33: 224)	Industry, affecting public interest	X	
1947 (SLL 33: 274)	Charitable hospitals	X	X
Missouri: 1947 (SLL 35: 211) [2]	Public utilities	X	X [3]
Nebraska: 1947 (SLL 37: 235)	do		X
New Jersey: 1946, 1947, 1949, 1950 (SSL 49: 221)	do	X	X
North Dakota: 1953 (SLL 44: 225)	Any dispute	X	
Pennsylvania: 1947 (SLL 48: 251)	Public utilities	X	X
Virginia: 1952 (sec. 40-95.3, SLL 57: 746)	do	X	
Wisconsin: 1947 (SLL 60: 248)	do		X

[1] The U. S. Supreme Court in decisions in 1923 and 1925 declared that it is unconstitutional to fix wages by compulsory arbitration in the meatpacking industry. However, the act may still apply to the railroad and public utilities industries.
[2] Act unconstitutional, in opinion of State attorney general.
[3] If no agreement reached, a public hearing panel is established which must make recommendations for settling the dispute.

Mr. HOLLAND. Of interest in table No. 6 is disclosure of the fact that even since the Wisconsin case two States, realizing the need for some kind of machinery to protect the public in such matters—Virginia in 1952 and Maryland in 1956—have enacted State laws regulating disputes in public utilities cases.

The treatment of this subject in these laws varies greatly. Some of them ban strikes until a statutory procedure is complied with, as in Florida; some provide for seizure and operation by the State; one permits no strikes until 60 days after written notice of intention to strike to a board of mediation and the

other party; others do not ban strikes but provide penalties for picketing and sabotage, or provide for mediation of disputes; and various other methods are employed to handle the problem—the methods which are acceptable to the people of the particular State, as enacted in laws passed by the State legislature.

Different States have different methods for handling such matters, but certainly they should be permitted to take jurisdiction over labor-management problems in a local field of such vital concern to the local people.

Mr. President, I have presented the basic facts as I understand them concerning the no man's land in connection with strikes in public utilities, and without rearguing the Wisconsin case, it is perfectly clear to me that the major proponents of the Taft-Hartley Act never intended any such result when that act was passed. Regardless of that fact, however, the basic problem is with us—it is serious—and it demands early attention.

The problem has been demanding early attention, Mr. President, for 7 years. The Senator from Florida, along with other Senators, has been endeavoring to bring this problem to the Senate floor for 7 years. This is the first time I have had a chance to do so. I simply state, with a smile, that I have found the committee recalcitrant when it came to consideration of this particular measure, either favorably or unfavorably.

I think it should be said in complete justice to the distinguished chairman of the subcommittee, the junior Senator from Massachusetts [Mr. KENNEDY], that in a former debate on this subject on the floor he expressed sympathy with our problem and a willingness to help solve it. We hope that sympathy and willingness will show themselves in the attitude of the distinguished Senator as a leader today.

I desire to read, Mr. President, from the CONGRESSIONAL RECORD of May 6, 1954, volume 100, part 5, page 6113, from the debate upon a measure amending the Taft-Hartley law in that year. I shall not weary Senators by quoting unduly, but I shall simply quote two paragraphs from the remarks of the distinguished Senator from Massachusetts, with the full understanding that any Senator has the right to quote the entire statement. I am not seeking in any way to embarrass anybody. I simply want to show there is sympathy, but when it comes to results we have not been able to get any.

I read this paragraph, as a quotation from the distinguished Senator from Massachusetts:

> I know the Senator from Florida is entirely sincere in his desire to permit the States to protect themselves in cases of emergency. I believe the Federal Government has such authority under the Taft-Hartley Act, and that, therefore, the States should have it.

Mr. President, the Senator's philosophy and mine are completely on all fours as to that. I, too, think the States should have the power. I agree completely with the statement then made by the distinguished Senator from Massachusetts.

> I would not object if the amendment of the Senator from New Jersey [Mr. SMITH] were drawn in language sufficiently specific to provide for State action in a case involving a public utility employer whose work involved the lives of the people, but not in a field as broad as that defined in the Florida statute.

A little later in the same debate in another paragraph there is a statement which shows the considered judgment of the distinguished Senator from Massachusetts at that time, and I believe his judgment is the same at this time:

> I should like to join the Senator from Florida in attempting to ascertain whether we can agree upon amendatory language which would really give the States the right to deal with genuine emergencies, under language drawn with sufficient care so that it will not permit the States to stray over into a wide area which hitherto has been under the protection of the Federal act.

Mr. President, the subcommittee headed by the distinguished Senator from Massachusetts is the first committee in 7 years which has been gracious enough to allow the Senator from Florida the opportunity to be heard upon this measure. I express my grateful thanks to the Senator for that consideration.

During the course of the hearings, the Senator from Massachusetts expressed again his feeling that the Florida law might be a little broad. Senators will find that statement in the colloquy which took place.

In the effort to meet the views of the distinguished Senator from Massachusetts, the Senator from Florida redrafted the amendment proposed by him and the Senator from Virginia [Mr. ROBERTSON], so as to leave out some matters which perhaps are not as vital, such as the operation of a bridge, the operation of a tunnel, sanitation and communication services. At present the amendment, as proposed, covers what seems to the Senator from Florida to be the mere skeleton or the mere essence of what is required in any civilized community in order that the public interest may be safeguarded. That essence is stated in the amendment now pending in the following words:

> Nothing in this act or in the Labor-Management Relations Act, 1947, shall be construed to nullify the provisions of any State or Territorial law which regulate or qualify the right of employees of a public utility to strike, or which prohibit strikes by such employees.
>
> As used in this subsection, the term "public utility" means an employer engaged in the business of furnishing water, light, heat, gas, electric power, or passenger transportation services to the public.

Mr. President, that is the mere essence of services which are taken for granted and are completely vital to the functioning of a civilized community, and the Senator from Florida and the Senator from Virginia have attempted to confine the operation of the proposed amendment to those vital fields.

In my State we have had some experience with this situation. I regret to have to so report to the Senate. I have already mentioned that in a case passed upon by the Florida Supreme Court, the United States Supreme Court decision in the Wisconsin case was followed in such a way as to knock out the Florida statute. I think our court was correct in its action. After all, the decision of the Supreme Court of the United States is the supreme law of the land. When we reach the time when we do not so regard it, Mr. President, we shall be drifting toward a dangerous situation.

I remind Senators that the Supreme Court decision was not a unanimous one on the part of the Court, but that there were able Justices on each side. If anything, the opinion of the dissenting or minority justices is even stronger and more completely acerbic in wording than the opinion of the majority of the Court in that case.

Mr. President, that particular case arose in the city of Miami and grew out of the local transit system strike, a strike which resulted in the very great hurt of the city and its people, but particularly to the hurt of people who work with their hands and who have to patronize the public-utility transportation system, not having cars of their own in which to go to their places of work.

Mr. President, I have had repeatedly made to me by humble citizens of my own State both within unions and outside of unions—and I certainly agree with them—the point that the people of humble background economically and the people who work with their hands, many of whom do not have cars of their own and could not move out of the city, if there should be a stoppage of power, light, electricity, or gas, but would have to continue to live in their humble surroundings, would be the ones worse hurt if there were a stoppage or a shutdown of any of these public utilities.

Mr. President, I wish to come to the immediate facts. Yesterday marked approximately the 80th day of the strike in Jacksonville on the bus system. I am hoping the strike, which has been continuing for nearly 80 days, was wound up yesterday, but I have not heard this morning.

I shall simply ask to have printed in the RECORD some excerpts from the editorial of the Tampa Tribune on this subject, which show how seriously our people are affected by the situation, and also show, I think, the expression of the majority thinking in our State, that the State should be allowed to deal effectively with such interruptions of such vital service.

These quotations are from the editorial in the Tampa Tribune, entitled "Make 'Em Give It Back, Senator." They were talking to me, and I am glad they were. The editorial relates to what the editors thought was the very great need for the enactment of this amendment. I ask unanimous consent that the excerpts be printed in the RECORD at this point as a part of my remarks.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

MAKE 'EM GIVE IT BACK, SENATOR

> A strike which has shut down Jacksonville's transit line for 38 days points up a neglected Congressional duty which Florida

Senator SPESSARD HOLLAND is trying to persuade Congress to perform.

Florida and nine other States formerly had laws requiring arbitration of labor disputes affecting public utilities and transportation systems. But in 1951, in a case arising in Wisconsin, the United States Supreme Court held that Congress, in passing the Taft-Hartley law and the National Labor Relations Act, had closed to State regulation the field of peaceful strikes in industries affecting commerce.

Whether this was the intent of Congress, we don't know. But the fact remains that in the ensuing 7 years Congress has done nothing to restore to the States the power to deal with strikes affecting public utilities.

Senator HOLLAND has vainly introduced the necessary bill in three previous sessions of Congress. Undismayed, he again submitted one the other day in cooperation with Senator A. WILLIS ROBERTSON, of Virginia.

If Florida had its old law in effect, the shutdown of the Jacksonville bus system presumably could have been avoided. The Governor could have invoked procedures requiring labor and management to submit their differences to arbitration and keep the buses running in the meantime.

As matters stand, the State can do nothing. Neither, apparently, can the city of Jacksonville.

* * * * *

A bus shutdown, as Tampa knows from past experience, can cause great public inconvenience and economic loss. But it's nothing compared to the public dangers of a strike in electric, gas, telephone, or water systems.

There's no excuse for strikes of this kind, where the innocent public is the chief sufferer. Labor and management both ought to have enough sense of responsibility to arbitrate their differences, if they can't agree. Since they sometimes fail their responsibility, the State should have power to compel arbitration.

Congress ought never to have taken this power from the States. But since, in the Supreme Court's view, it did, it should put an end to 7 years of procrastination and give back to the States what is rightfully theirs.

Mr. KNOWLAND. Mr. President, will the Senator yield?

Mr. HOLLAND. I yield.

Mr. KNOWLAND. I have gone through the group of amendments on my desk. Has the Senator's amendment been printed?

Mr. HOLLAND. My amendment was printed in the form of a bill several weeks ago. In its present form, as cut down to the present essentials, I do not believe it has been printed. I am sending to the distinguished Senator a copy of the amendment.

Mr. KNOWLAND. I was wondering if the Senator could have mimeographed copies prepared—unless copies can be obtained from the Public Printer before the Senate acts on the Senator's amendment—so that copies would be available to all Senators.

Mr. HOLLAND. I am perfectly agreeable to that course. The situation under which I am laboring is this: This is my only opportunity to present the amendment. I must be in conference this afternoon on an appropriation bill, as the distinguished Senator from California knows.

Mr. KNOWLAND. Mr. President, will the Senator further yield?

Mr. HOLLAND. I yield.

Mr. KNOWLAND. I am not questioning the merits of the Senator's proposal, because I have not had an opportunity to study it. However, it seems to me that in this field the Senator is certainly amply justified in offering the amendment.

But when we do not have printed copies, it would be helpful, particularly with respect to an amendment of some importance, and involving some controversy, if mimeographed copies could be made available to each of the 96 Senators before we act.

Mr. HOLLAND. I appreciate the statement of the Senator.

The proposal in its original form was introduced as Senate bill 3692, which we have amended by eliminating various services which, as indicated in the hearing, were not regarded by the chairman of the subcommittee as of sufficiently vital importance to justify their inclusion, leaving only water, light, heat, gas, electric power, and passenger transportation. If the Senator will examine a printed copy of Senate bill 3692, he will find that if he will strike out all the other services except those I have named, he will have the language of my amendment.

Mr. KNOWLAND. I am not an attorney, and I believe the Senator from Florida is. In his judgment would his amendment be necessary if the so-called twilight zone amendment were adopted?

Mr. HOLLAND. It would, because the "twilight zone" amendment, as I understand, is based upon clearing up the situation in cases in which the National Labor Relations Board declines to take jurisdiction. The pending amendment deals with a field in which, in my judgment the Court misinterprets the Taft-Hartley Act. The Court, by a majority opinion, with three Justices dissenting, has held that the States are without any authority whatsoever to continue to administer State laws in such a way as to assure the continued functioning of vital public utilities. As the Senator from Florida understands, that is in addition to the other field, generally referred to as the "no man's land" field, which results only in cases in which the National Labor Relations Board declines to assume jurisdiction.

I note the presence in the Chamber of the distinguished Senator from Utah [Mr. WATKINS], who has made a very profound study of that particular field, the "no man's land" area. If I may be permitted to do so, I should like to yield to him to state his opinion on that subject.

I ask unanimous consent that I may yield to the Senator from Utah for that purpose without losing the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WATKINS. Mr. President, if I correctly understand the Senator from Florida, the situation he is now discussing is not one in which the National Labor Relations Board has refused jurisdiction.

Mr. HOLLAND. The Senator is correct.

Mr. WATKINS. It has taken jurisdiction, but in effect it has not done anything.

Mr. HOLLAND. The Senator is correct in part, and incorrect in part. The National Labor Relations Board is not responsible for the ruling in this case. The ruling was made by the United States Supreme Court. It has held that the Federal Government has preempted this field so entirely that State laws which attempt to deal with stoppages or threatened stoppages of vital public utilities are nullified to the point that there is no State remedy at all. That is in addition to the "no man's land" which results in the case of rulings from the National Labor Relations Board that it will not accept jurisdiction in a particular field.

Mr. WATKINS. Under the circumstances, I feel that the amendment which I have proposed would probably not take care of the situation the Senator is discussing.

Mr. HOLLAND. I appreciate the opinion of the distinguished Senator from Utah, which I am sure is correct.

Mr. President, I have taken enough of the time of the Senate. It will probably be urged that there is no immediate need for this amendment. It is needed, because for the past 80 days in the city of Jacksonville, the second largest city in my State, the public has been completely ignored in the abandonment of operations during the strike of the public-utility employees. I should like to have the RECORD show something of the hardship which has been visited upon many people, and particularly upon humble people.

Not only has the stoppage taken place, but it has been complete. When the mayor of the city and others moved to request that enough buses be operated to enable naval personnel to spend their weekends at their home base, Mayport, on the outskirts of Jacksonville, in order to enable them to visit their loved ones or enjoy themselves in any way they saw fit, such request was denied by whoever was in charge of making the decision for the union. The Navy had to divert great carriers, with their personnel of thousands, on their weekend leaves and other leaves, from the port of Jacksonville to ports farther north—as I understand, the ports of Charleston and Norfolk.

Economic loss has been suffered by people who have nothing to do with the strike argument. The economic loss sustained by them has been very severe. That case alone should show the need for the amendment.

I have heard my distinguished friend the senior Senator from New Jersey [Mr. SMITH] comment on this question. He commented upon it the other day during the course of an argument in the committee. By the way, the committee did not see fit to take a position either for or against the proposal. The committee was completely silent concerning it.

I notice in the hearings these words by the distinguished senior Senator from New Jersey, speaking with some approval of the position taken by the Senator from Florida:

> I have had the experience in my own State of a situation where, because of the Wisconsin case, we could not deal with the matter of an electric light shutdown, and it caused terrible hardship because there was absolutely no way to deal with it.

When electric power is shut off, cutting out light and all the other blessings

which go with electricity, a blow is struck at the operation of hospitals, the operation of dairy farms, and the operations of those who make their living in the poultry industry. A blow is struck at people who have stored in various refrigerating devices food for a considerable time in the future.

A blow is struck at very humble people of every sort who are seriously affected. A blow is struck at the city, and its ability to operate its traffic lights.

A blow is struck at government and private life in so many areas that it seems to me to be inescapable that services of this type should be continued, especially when we realize that they are afforded under a monopolistic grant or franchise given by the city or State, which, in effect, makes the utility an arm of the government in its operations.

Mr. SMITH of New Jersey. Mr. President, will the Senator yield?

Mr. HOLLAND. I yield to the Senator from New Jersey.

Mr. SMITH of New Jersey. The Senator from Florida has quoted correctly what I said to the committee. The Senator refers to a field which I feel should be covered, in order to prevent public utility breakdowns, and so forth. However, I believe that there would be a great danger if we dealt with the subject in the pending bill, which provides for the reporting and disclosure of certain financial transactions and administrative practices of labor organizations and employers, to prevent abuses in the administration of trusteeships by labor organizations, to provide standards with respect to the election of officers of labor organizations, and for other purposes.

I feel I must do all I can to protect those who have worked on the bill and have brought it to the floor of the Senate, and to limit it to the subjects with which it purports to deal. If we open the bill to other subjects, we may defeat the whole bill.

I am in sympathy with what the Senator from Arkansas said this morning. I, too, would like to strengthen the bill. However, if we go into other areas, such as the one the Senator from Florida suggests, I am afraid we will confuse the issues and a number of other amendments will be offered, which do not belong in the proposed legislation, and we will prejudice the whole bill.

I believe I must support the chairman of the committee in his position that we are going far afield if we open the bill in this way. If the distinguished Senator wishes to offer a separate bill, to amend the Taft-Hartley Act, I shall be glad to support it.

Mr. HOLLAND. I appreciate the frank remarks of the distinguished Senator from New Jersey. He has taken that stand for 7 years, and he has not been able to get any action on our bill in those 7 years, even though he has been a member of the committee to which the bill has been referred. He spoke with great sympathy during the hearings. It appears that the same inability to get action probably still exists, because there is no mention made of such an amendment in the report of the committee, and such an amendment is not included in the bill, in spite of the fact that the President, who belongs to the party so honorably served by the distinguished Senator from New Jersey—and who also serves the Nation as well—has specifically called attention to the necessity for this particular amendment.

I believe that the distinguished Senator from New Jersey, in his remarks, was inclined to think that the request for dealing with this subject matter, made by the President, perhaps reached back to and included the earlier request specifically covering this subject, made in 1954. The Senator's remarks are found at pages 485 and 486 of the hearings.

Mr. SMITH of New Jersey. Mr. President, I introduced proposed legislation for the administration in January of this year. It is embodied in the amendments which I have submitted and which are now at the desk. Why a proposal on the subject under discussion is not included in the President's recommendation this year, I do not know, but it is not included this year.

I believe we are trying to pass a bill which will meet the problem of disclosure. That is what we are seeking. I do not want to get away from that main objective. The amendments I have submitted and will offer are aimed toward perfecting the bill which has this definite purpose. I feel it would be difficult and confusing if we were to open the floodgates to amendments which are far afield from the main purpose.

I do not want to do anything which will prevent our passing a bill now to take care of the main objectives. I favor strengthening those main objectives, but I do not favor going into other areas. There are any number of other areas which I should like to see taken care of, but I do not believe it would be wise to do it now.

Mr. HOLLAND. I appreciate the comments of the Senator from New Jersey, whose convictions I respect. I call attention to the oft-repeated statement of the Senator from Arkansas that he is perfectly willing to include such an amendment as this in his bill, because he believes it to be of vital necessity and importance.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. HOLLAND. I yield.

Mr. CURTIS. I wish to commend the distinguished Senator from Florida for offering his amendment.

Mr. HOLLAND. I thank the Senator from Nebraska.

Mr. CURTIS. My own State of Nebraska has a statute which deals with these purely intrastate matters. Some years ago I introduced a bill on this subject, and the late Senator Butler offered a bill for many years in the Senate on the same subject. It is a matter with which we should deal, and which must be taken care of.

There is involved the very fundamental principle of States rights. It is a question of whether we are to permit the Supreme Court ruling to stand as to these matters, which are purely local. It is a question of whether local communities shall be denied the power and light and water and transportation they require, and whether the States and localities can deal with the problem.

No one can object to the Senator's amendment on the ground that in a particular State there is no such statute and that it does not want to enact such a law. The amendment does not force anything on any State. However, it gives a State the right to meet the problem. I shall not only vote for the Senator's amendment, but I hope it will be adopted by one of the unanimous votes we have been having lately.

Mr. HOLLAND. I certainly appreciate the cordial and generous remarks of the Senator from Nebraska, which are a real contribution to the debate.

In the hearings he will find listed the States which have such laws. I have already submitted the list for the RECORD. In that list I find the State so ably represented, in part, by the Senator from Nebraska [Mr. CURTIS]. The list shows that Nebraska, by an act passed in 1947, provides machinery to guard against stoppages both in public utilities and in Government services, showing that the State of Nebraska has gone further than my own State in this regard. My State deals merely with the field of public utilities.

Mr. MUNDT. Mr. President, will the Senator yield?

Mr. HOLLAND. I yield.

Mr. MUNDT. I should like to inquire from what page of the hearings the Senator is quoting.

Mr. HOLLAND. I am reading from page 480 of the hearings before the committee so ably headed by the junior Senator from Massachusetts.

Mr. MUNDT. I thank the Senator.

Mr. HOLLAND. In the list of States there will be found 17 States and Hawaii, but I do not find in the list the State of South Dakota.

Mr. MUNDT. That is why I made the inquiry of the Senator. I wonder if the Senator would explain the impact of his amendment on States such as mine, which apparently do not have the type of legislation which Nebraska, Florida, and other States have.

Mr. HOLLAND. I thank the distinguished Senator. I note that his neighboring State of North Dakota does have such an act, which is apparently even more far reaching than any of the acts which I have mentioned up to now. The law in North Dakota provides for seizure and for State operation and compulsory mediation of all disputes and for seizure in the field of public utilities. I do not find any similar act in South Dakota.

Mr. MUNDT. Would the adoption of the amendment take from a State such as South Dakota any of the protection which it now has?

Mr. HOLLAND. The adoption of the amendment would not take from a State anything; it would give back to the States what the United States Supreme Court took away from them when, in the Wisconsin case, it ruled that the passage of the Taft-Hartley Act had preempted entirely for the Federal Government the field of collective bargaining, to the degree that there was no continued validity or effect to any State law which sought

to guard against the closing of the operation of public utilities in a State or in communities within a State.

Mr. MUNDT. I am entirely in sympathy with what the Senator from Florida is endeavoring to do. I support fully the position that the States should have this authority and right where they have provided for it by implementation of law. My inquiry was whether by the adoption of the amendment a State such as South Dakota would be any less well protected by virtue of the fact that we have restored or preserved or solidified the right of the State.

Mr. HOLLAND. No. South Dakota would be better protected because, at least, there would be no question of its right to exercise its police power within the language of its statute. South Dakota would be allowed, then, to go ahead, if it desired to do so, in the wisdom of its own legislature, to pass further measures for mediation, for conciliation, for seizure, for injunction, and for any of the other things which are effective in continuing permanently or for some period of time the operation of public utilities.

Mr. MUNDT. In the interim, the Senator's amendment would not deprive a State of any protection which it might derive by virtue of some Federal statute?

Mr. HOLLAND. In the interim, the amendment would simply restore the States to the position in which they were at the time of the passage of the Taft-Hartley Act, and would enable them to deal with this important question in the field of public utilities. The amendment deals with nothing but the field of public utilities.

Mr. MUNDT. As I understand it, it would not deprive the States of any protection which they might otherwise secure through the Taft-Hartley Act or any other provision of Federal law.

Mr. HOLLAND. Not in any way.

Mr. MUNDT. I thank the Senator from Florida.

Mr. HOLLAND. The amendment, if adopted, would be effective only to permit the functioning of State laws, if there were any which were designed to keep the public-utility services I named in operation.

Mr. ALLOTT. Mr. President, will the Senator yield?

Mr. HOLLAND. I yield.

Mr. ALLOTT. My State is one of those which is listed on page 480, and which does not have such laws. It would be in the same category, then, as the State of the Senator from South Dakota.

Would the adoption of the amendment in any way diminish the rights of the people of such a State or deprive them of any of their rights under the Taft-Hartley law?

Mr. HOLLAND. It would not in any way.

Mr. ALLOTT. I thank the Senator from Florida.

Mr. HOLLAND. The Taft-Hartley law is silent as to providing any method to continue the operation or accomplishing the continued operation of public utilities. By the closure of such utilities, a national emergency is not created; the emergency is created only in the communities where the utilities operate. The court held that, notwithstanding the fact that there is no remedy provided by the Taft-Hartley law in such a case, the Federal Government has preempted or fully occupied that field in such a way that the States are left powerless and helpless to meet the problems of their own people and their own communities in those fields.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Florida [Mr. HOLLAND] for himself and the Senator from Virginia [Mr. ROBERTSON].

Mr. ERVIN. Mr. President——

The PRESIDING OFFICER. The Chair recognizes the Senator from North Carolina.

Mr. KENNEDY. Mr. President, will the Senator from North Carolina yield, so that I may suggest the absence of a quorum, with the understanding that he will not lose the floor?

Mr. ERVIN. With that understanding, I yield.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FREAR in the chair). Without objection, it is so ordered.

Mr. ERVIN. Mr. President, the lot of a legislator is not always a happy one. Many times he is compelled to vote against proposed legislation which he favors.

Insofar as I am concerned, that is true in respect to the amendment submitted by the able and distinguished senior Senator from Florida [Mr. HOLLAND]. I am strongly in favor of the enactment of a law which will carry out the objective of his amendment. I say here and now that such a law is favored by me personally, and also is favored by the overwhelming majority of the citizens of my State. I believe that in the Wisconsin case decision, the Supreme Court of the United States misconstrued the provisions of the Taft-Hartley Act with reference to the power of the States to act in emergencies which affect public health and public welfare; and I state further that I pledge to the able and distinguished Senator from Florida that, if the committee fails to report within a reasonable time a separate bill embodying the substance of his amendment, I shall be glad to join him in voting to discharge the committee from the further consideration of such a measure.

But, Mr. President, in common with other Members of the Senate who constitute the McClellan select committee for a year and a half, I have spent a major portion of my energies and my time in conducting investigations into a limited number of labor unions. In common with the other members of the committee and in common with the great majority of informed Americans, I have been astounded by the revelations of conditions existing in such limited number of unions. Personally, I do not believe such conditions exist in the great majority of the unions. But I am convinced that the conditions which have been revealed by the investigations conducted by the McClellan select committee demand the enactment of legislation without delay.

Mr. President, if the bill the Committee on Labor and Public Welfare has reported is used by us as a vehicle for a consideration of all the changes which Senators think should be made in the Taft-Hartley Act, we would make it certain, insofar as this session of Congress is concerned, that the labors of the McClellan select committee have been in vain.

Undoubtedly there are many areas in which the Taft-Hartley Act should be amended; and it should be amended in the area to which the amendment of the able and distinguished senior Senator from Florida [Mr. HOLLAND] applies.

Mr. HOLLAND. Mr. President, will the Senator from North Carolina yield for a question?

The PRESIDING OFFICER (Mr. FREAR in the chair). Does the Senator from North Carolina yield to the Senator from Florida?

Mr. ERVIN. Yes; I am glad to yield.

Mr. HOLLAND. Mr. President, I think I am a rather patient man. I have been trying to obtain a hearing on this amendment for 7 years, but without success, and I have not received any comment upon the amendment even in the report on the pending measure.

Does the distinguished Senator from North Carolina think it is necessary to wait longer than 7 years in order to find out what is the attitude of the particular committee which is handling this proposed legislation?

Mr. ERVIN. My answer to the Senator from Florida is that it is better to do one job at a time. It is much better for the Senate to pass a law which the overwhelming majority of the Members of Congress, I believe, will support, than it is to propose to that law amendments which will make it virtually certain that no legislation in this field will be enacted at this session.

Mr. MORSE. Mr. President, will the Senator from North Carolina yield to me?

Mr. ERVIN. I yield to the able and distinguished senior Senator from Oregon.

Mr. MORSE. I have listened with great profit to the distinguished Senator from North Carolina, as I always do. I believe that, in the last analysis, the Senator from North Carolina will vote differently than I will when there comes before the Senate proposed legislation providing for the handling of disputes affecting public utilities. I intend to speak on that subject later today, if such an amendment is incorporated in the pending bill.

But at this time I wish to speak for a moment about procedures, to my friend, the Senator from North Carolina, because on that point he and I were of one mind a few weeks ago, in connection with labor legislation.

I understand the situation which confronts the Senator from Florida [Mr.

HOLLAND], and I have a great deal of sympathy for it.

But I completely share the view, as expressed by the Senator from North Carolina [Mr. ERVIN], that the primary job before the Senate in connection with the pending measure is to meet the problems presented by the abuses which have been disclosed by the McClellan Select Committee and also in the course of the hearings relative to this proposed legislation. That is the objective and that is the purpose of this measure.

My record is rather clear, as one who has favored a whole series of amendments to the Taft-Hartley Act since the late Senator Taft first proposed some amendments in 1949. Furthermore, I believe there is strength in the position of the Senator from Florida, in that I believe that from a procedural standpoint he is entitled to have some proposed legislation in connection with the proposals he has made reported by the Committee on Labor and Public Welfare and voted either up or down by the Senate.

Some weeks ago, when it seemed that what I called a catchall, omnibus bill would be drafted on the floor of the Senate, I pledged to the Senate, as a member of the committee, that if our committee did not report a bill dealing with the subject matter which I believe all of us had in mind then, growing out of the hearings conducted by the McClellan Select Committee, I would move on June 10 that the committee be discharged from the further consideration of the bill. However, on June 10 the committee made its report.

A few minutes ago the Senator from North Carolina said, if I understood him correctly, that if the committee did not report, either affirmatively or negatively, on the Holland proposal, he would, within a reasonable period of time, move that the committee be discharged from the further consideration of the measure.

Mr. President, I am a member of the committee; and I shall join the Senator from North Carolina in such a motion. I think we must come to grips with the proposal of the Senator from Florida.

Later, I shall state the reasons why I shall not vote for his proposal in its present form. But certainly there is no reason why the Senate should not have an opportunity to receive from the Committee on Labor and Public Welfare, after hearings—and it will not take very long to hold the hearings—a report directed specifically to the proposal of the Senator from Florida, and then have an opportunity, within a reasonable length of time, to vote on such a proposal in sufficient time to enable the House of Representatives to vote on it also before this session ends.

Mr. HOLLAND. Mr. President——

Mr. MORSE. But now, if the Senator will bear with me for a minute longer, I will tell the Senator what concerns me. I think we have to come to grips with the question which concerns the Senator from North Carolina. We have to make up our minds this afternoon whether we are to have legislation enacted in this session of Congress dealing with abuses of unions which were disclosed by the McClellan committee.

Who can predict what will happen in Congress? I shall not predict, but I shall express my judgment. My judgment is that if the Holland amendment is attached to the bill, there will be no legislation enacted in this Congress along the line of the pending bill. There are divisions among us on the issues raised by the Holland amendment. The Holland amendment raises the question of a major amendment of the Taft-Hartley law. I think it would be a sad thing if we got ourselves bogged down and boxed in during this debate over the Holland amendment, when in my judgment, the end result would be no legislation. All I can do is express my judgment. As a member of the Committee on Labor and Public Welfare, I want the RECORD to show I shall urge that hearings be held immediately on the Holland proposal, and that there be a vote on the proposal before Congress adjourns.

If the Holland amendment were added to the bill, I could not vote for the bill, because I have deep convictions about compulsory arbitration and the dangers it will lead to in the country. I think there are alternative procedures for handling public utility strikes that are preferable to those which the Senator from Florida has offered. What I am worried about is the procedural snarl we are about to get ourselves into if the amendment is attached to the bill. I think the end result will be defeat of a great objective and goal which an overwhelming majority of the Senate wants to reach.

Mr. HOLLAND. Mr. President——

Mr. ERVIN. I shall yield in a moment.

Mr. HOLLAND. I have only a few minutes for lunch and then I must attend a conference.

Mr. ERVIN. I defer to the Senator from Florida.

Mr. HOLLAND. Mr. President, I ask for the yeas and nays on my amendment. I am called to conference. I shall not be able to come back later.

The yeas and nays were ordered.

Mr. HOLLAND. I thank the Senator for his courtesy.

Mr. ERVIN. Mr. President, the able and distinguished senior Senator from Oregon has placed his finger squarely on the crucial issue now before the Senate. As he has pointed out, there are Members of the Senate, as well as Members of the House, who entertain quite divergent opinions with respect to many provisions of the Taft-Hartley law and many proposals for the amendment of the Taft-Hartley law. But here is a bill on which, at least in respect to the first five titles, all Senators, with varying opinions, can unite, and which all Senators agree represents a good bill and one that should be passed, not only for the benefit of the rank and file of union members and for the benefit of union officers who are honorable and law-abiding men, but also for the purpose of making for decency and honesty in one of the great areas of our national life.

The pending bill, for example, makes it a criminal offense to deliberately destroy records of unions. In the investigations of the McClellan committee we found that on many occasions records of unions that were being investigated had been destroyed, not only for the purpose of preventing the committee from ascertaining that those records would show, but also for the purpose of preventing their own members from knowing what was transpiring. This bill would make such action a crime and thus put an end to that practice.

We also found in our investigations that in some cases charters for local unions had been issued to members of the underworld, and those members of the underworld, under color of the charters, were exploiting the rank and file of labor in many cases by making sweetheart contracts with management. This bill would put an end to such practices as that.

We also found that officers of some unions had, in effect, committed what was nothing more nor less than embezzlement or larceny of union funds, and that they had not been brought to task for it. This bill will make certain that embezzlement or larceny of union funds for personal profit or personal pleasure by those who ought to guard those funds will end, or the wrongdoers will serve jail sentences for misapplication of the funds.

We also found in our investigations that under the trustee process, many local unions were deprived of the right to manage their own affairs by dictatorial action of international officers. This bill, if enacted into law, would put an end to that practice, and make certain that the device which on many occasions has been used to destroy democracy in local unions would be supervised in such a manner as to prevent its abuse in the future.

We found in many cases there had been no elections in local unions for years. This bill will make certain that members of local unions will have an opportunity to vote for their officers under such circumstances that their votes will be counted.

Such provisions should be passed. I personally have some misgivings about the inclusion of title VI.

Mr. LAUSCHE. Mr. President, will the Senator yield?

Mr. ERVIN. I am glad to yield to the able and distinguished Senator from Ohio.

Mr. LAUSCHE. I gather the Senator from North Carolina declares that in principle this bill ought to be confined to provisions which will deal with the evils which were principally disclosed by the investigation of the McClellan committee, and that, therefore, the inclusion of the amendment of the Senator from Florida would possibly bring about the defeat of the bill because of the controversial nature of the amendment.

Conceding that principle as sound, will the Senator from North Carolina explain on what theory there has then been included in the bill title VI, which deals with vital matters, which deals with loosening the provisions of the Taft-Hartley Act, and, in fact, exempts from the Taft-Hartley Act the huge building and construction industry?

Mr. ERVIN. Not having been a member of the subcommittee of the Senate Committee on Labor and Public Welfare which considered the bill, I am unable to

answer the distinguished Senator's question. However, as I recall, the chairman of the subcommittee, the able and distinguished Senator from Massachusetts, stated that some of those provisions were included in the bill at the request and suggestion of the Secretary of Labor.

The Senator from Ohio has correctly stated my position. I should like to confine the bill to the first five titles, which provide remedies to prevent abuses toward the rank and file of labor members in their democratic rights as members of local unions, those abuses which result in the misuse of union funds, and those abuses illustrated by the "sweetheart" contracts between union leaders and management. Therefore, I would vote for an amendment to strike out title VI entirely and to restrict the bill solely to those matters investigated by the McClellan committee. That action would result in a bill for which every man who believes in honesty and square dealing—as does every Member of the House and the Senate—could vote without misgivings.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. ERVIN. I am glad to yield to the Senator from Arizona.

Mr. GOLDWATER. I am glad the Senator has yielded at this point, because I desire to address a question to him. If the Senator will allow, I should like to read a few lines from the interim report of the Select Committee on Improper Activities in the Labor or Management Field, of which committee the Senator and I are both members.

On page 450 appear the "legislative recommendations":

The United States Senate Select Committee on Improper Activities in the Labor or Management Field recommends that the Congress of the United States give attention to the passage of legislation to curb abuses uncovered in five areas during our first year of hearings.

These recommendations are:

1. Legislation to regulate and control pension, health, and welfare funds.

I invite the Senator's attention to the fact that we have provided for that recommendation.

2. Legislation to regulate and control union funds.

I invite the Senator's attention to the fact that we have in part covered that matter in the bill, but the fiduciary responsibilities which are secondary have not been acted on, and are the subject of an amendment which I believe will be offered today. By the way, this has no relationship to title VI.

3. Legislation to insure union democracy;

That has been acted on to some extent in the pending bill, but not in the detail to which the Senator from Arkansas [Mr. McCLELLAN] in discussions indicated he thought it might require—

4. Legislation to curb activities of middlemen in labor-management disputes;

That will be accomplished in the presently proposed legislation.

5. Legislation to clarify the "no man's land" in labor-management relations.

This is the point to which I desire to invite the Senator's attention. The question I desire to pose to the Senator is: If he supports the thesis that we should strike title VI, does he then support the thesis that we should not act to clarify the "no man's land" in labor-management relations, since that would have to be an amendment to the Taft-Hartley Act? Does the Senator feel we should ignore No. 5 of the legislative recommendations of the McClellan committee?

Mr. ERVIN. I do not think the Senate should ignore that recommendation. I think an appropriate amendment or an appropriate change in the law to clarify the "no man's land" area would require more study than we are able to give on consideration of the bill presently before the Senate. Therefore, I would not favor going into that matter with respect to the pending bill.

I think we ran into some other things as to which the evidence indicated a need for change. I think we need a clarification of the law as to secondary boycotts.

Mr. GOLDWATER. Mr. President, will the Senator yield further?

Mr. ERVIN. I yield.

Mr. GOLDWATER. I have assigned my question only to the field as to which the Senator was talking.

Mr. ERVIN. Yes.

Mr. GOLDWATER. I am in effect supporting the Senator's suggestion that we see to it that the McClellan committee recommendations are met as a minimum. That might even be as a maximum, but certainly as a minimum we should see that those recommendations are met.

If we members of the select committee are going to be sincere in our feelings, those recommendations should be met, and certainly we have to consider language to clarify the "no man's land." We have had an abundance and an overabundance of testimony for years to the effect that there must be action in such field, to give to the States the right to handle the disputes and arguments which arise which the NLRB will not handle or cannot handle because it does not go into local matters.

I want to be clear in my mind, and I ask the Senator because he is a member of the select committee. Does he feel that recommendation No. 5 of the McClellan committee should be ignored?

Mr. ERVIN. I am heartily in accord with the view that there is a necessity for legislation to clarify the "no man's land" in the area of labor. I think that is essential. However, I think it is a problem which demands far more study than the Senate is able to give to it during the consideration of the bill presently before the Senate. I would rather insure the passage of the pending bill by restricting the bill to the prevention of corruption in financial matters—or, to state it in the reverse, the security of union funds—the promotion of democracy within the unions, to allow the rank and file to manage their own affairs; and the prevention of the collusive "sweetheart" contracts between labor and management.

There is no Member of the Senate who is a greater believer in States rights than I am. The closer to home we can keep the government, the better government we are going to have. I believe it wise to get this bill passed encompassing the provisions of the first five titles, because I do not think there is any substantial opposition to those on the part of anybody. Some would, of course, like to tighten the provisions up a bit and make them a little more stringent. I think if we go beyond those first five titles in the bill presently under consideration we shall jeopardize passage of the bill and make it practically certain that the bill will not become law. Let us do one job at a time.

Mr. GOLDWATER and Mr. MORSE addressed the Chair.

Mr. ERVIN. I am glad to yield further to the Senator from Arizona.

Mr. GOLDWATER. The Senator has answered my question, and I need not pursue the matter further.

I have discerned an implication in the arguments on the floor today that we cannot pass legislation unless it is held within certain circumscribed areas. I do not know who says we cannot pass the legislation. The Republicans do not say that. I am sure the Democrats do not say it. I have not heard anybody give any concrete reason why, if such an amendment is adopted, the bill cannot pass.

The distinguished Senator from New York [Mr. IVES] might urge the FEPC amendment, at which time we could probably "kiss the bill goodby," but I am pretty sure the Senator would be constrained from doing that.

I do not know why we are hearing today the idea that because of additions some Senators are against the bill. I invite the Senator's attention to the fact that omissions can also cause difficulty.

I intend to vote for the bill. It is not the kind of bill I want. I will say the amendments which are to be offered yet are not punitive amendments. They are not restrictive of the unions. They are not union busting. They are not strict. They will do nothing to hinder the operations of unions.

I cannot understand why all of a sudden we are hearing the argument used that legislation which goes beyond certain prescribed bounds cannot be passed. I have never heard that argument used on the floor of the Senate.

Mr. MORSE. Mr. President, will the Senator yield?

Mr. ERVIN. I will say to the Senator from Arizona that I have seen many a bill defeated because of amendments which were added to it. The unfortunate thing, I will say to the able and distinguished Senator from Arizona, on this point, is that all of the Members of the Senate and the House of Representatives do not entertain the same sound views on this subject I do. If they did, there would not be any trouble getting the right kind of law passed, but unfortunately they do not. [Laughter.]

Mr. MORSE. Mr. President, will the Senator yield?

Mr. ERVIN. There is one thing I wish to say to the Senator from Arizona.

I used to read Aesop's fables. In Aesop's fables there is a story about a dog which started across a foot log over a creek with a bone in its mouth. The

dog saw his reflection and the reflection of the bone he was carrying in the creek. Being anxious to get the bone he thought he saw in the creek, he opened his mouth to grab that bone, and lost the bone he had. That is precisely what is going to happen with respect to this bill if we load the bill down with a lot of amendments which are not germane to the restrictive field covered by the first five titles.

In a moment I shall be glad to yield to the Senator from Oregon, who is waiting.

I will say that the junior Senator from Arizona and I have served on the McClellan select committee together for a year and a half, and it has been a most pleasant association.

We agreed on many things. We disagreed upon some. I wish to say that the Senator has made a very substantial contribution to our country by the very diligent and courageous work he has done as a member of the committee. I think he deserves to be recognized for it.

Mr. GOLDWATER. I thank the Senator for his generous remarks.

Mr. MORSE. Mr. President, will the Senator yield?

Mr. ERVIN. I yield.

Mr. MORSE. Before I make comment on the observations of the Senator from North Carolina with respect to title VI, let me say humorously to my friend from Arizona that I think he made a comment which completely sustained the case of the Senator from North Carolina as to where we should stop in connection with the pending bill.

The Senator from Arizona stated that he intends to vote for the bill. I think we had better stop adding amendments to it. That is about as strong a statement as I have heard from anyone as to why we should follow the argument of the Senator from North Carolina and not add extraneous amendments such as the amendment of the Senator from Florida.

Mr. GOLDWATER. Mr. President, will the Senator yield at that point?

Mr. MORSE. I am glad to yield, with the consent of the Senator from North Carolina.

Mr. ERVIN. Mr. President, I ask unanimous consent that I may yield with the understanding that I shall not lose the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GOLDWATER. At no time has the junior Senator from Arizona indicated that if certain things were or were not done, he would not vote for the bill. I think there is too much threatening on the floor of the Senate with respect to legislation. I think we should be openminded.

As the Senator knows, I do not agree with the original proposals. I think we have come a long way in the past day and a half toward perfecting the bill. When a Senator stands on the floor of the Senate and says, "If this is in the bill, I will not vote for it," or "If this is not in the bill, I will not vote for it," that is not the proper way to legislate. I think there has been too much of that suggested on the floor already.

Mr. MORSE. Mr. President, will the Senator yield?

Mr. ERVIN. I yield.

Mr. MORSE. I think my friend from Arizona is quite mistaken as to the nature of the legislative process, if he interprets as a threat a statement by a Senator to the effect that he cannot go along with a bill if a certain principle is added to it, which he thinks so abhorrent that he would have to vote against the bill. Rather, I think we owe it to each other, as we hammer out legislation on the floor of the Senate, to display just the sort of frankness in which some of us have engaged.

As the Senator from North Carolina has pointed out, when we find ourselves pretty much in agreement on the bill as it comes from the committee, and when some of us are honest enough to say that if certain principles are added to the bill we cannot support it, I think we should be commended and not criticized or charged with making threats.

If a compulsory arbitration feature were added to the bill, in view of my long-standing opposition to that principle, I could not support a bill with that sort of police state procedure in it. That is what I happen to think compulsory arbitration is, for reasons which I shall set forth later.

Knowing the judicial fairness of the Senator from North Carolina, I ask him if he will reserve judgment on the striking of title VI until he hears from the committee at greater length why it is there.

Mr. ERVIN. I certainly will do that.

Mr. MORSE. Title VI is not separate from the other five titles. One of the primary purposes of title VI is to implement the other five titles.

Title VI, which is based upon some recommendations from the Government departments concerned, including the Department of Labor, has a great deal to do with the regulation of unions. I ask the Senator to turn to page 42, section 609, in line 5:

> (b) (1) It shall be unlawful for any person to request, demand, receive, or accept, or agree to receive or accept, any payment or delivery of any money or other thing of value prohibited by subsection (a).

Title VI goes to the whole question brought out by the McClellan committee, of the financial abuses and corruption abuses practiced on the part of a few labor leaders who have betrayed their trust to the rank and file, and a few employer representatives who have betrayed their trust to American business. It deals with the kind of mess disclosed by the Shefferman incident.

It will be found that in title VI there are some legal standards which enforcement agencies will need in order to administer and implement the first five titles of the bill.

The one farthest removed from the point I am now making is the building trades case. As I stated in committee, and now repeat on the floor of the Senate, we have had our troubles with some of the building trades locals, with regard to some of the very problems which concern members of the McClellan committee.

I think the building-trades proposal would do a great job in helping the officials of the building-trades unions to follow a good code of practice within the building-trades unions.

I offer that section of title 6—among other reasons—on the ground that its enactment would strengthen the hands of building-trades union officials in maintaining the kind of practices we want within the building-trades unions and all other unions.

So I ask the Senator from North Carolina to reserve judgment until some of us on the committee can take time to show him the interrelationship between title VI and the other five titles of the bill.

Mr. ERVIN. I assure the distinguished Senator from Oregon that I will certainly listen to any argument which is made. When one changes his mind from one day to another, it sometimes shows that he is wiser today than he was yesterday. So I am always ready to listen.

In closing, let me say that it has been a great privilege to serve on the McClellan committee with the other Senators who constitute that committee. All of them have been very diligent in the investigations conducted by the committee.

I also wish to commend the subcommittee headed by the able and distinguished junior Senator from Massachusetts [Mr. KENNEDY] for the work done on this bill. It is a remarkable thing, considering the many different shades of opinion on such a controversial subject as labor, to find a bill—at least so far as concerns the first 5 titles—on which men of divergent views can unite.

I think it would be a tragedy for America, a tragedy for the rank and file of the unions, and a tragedy for common honesty and decency for the Senate to add to the pending bill amendments which might jeopardize its passage—a bill which, as the revelations before the McClellan committee indicate, would meet the most crying need for legislation to be found in any field in our national life at this particular time.

Mr. DIRKSEN. Mr. President, I both agree and disagree with my learned friend from North Carolina.

I disagree with him with respect to the "no man's land" amendment, which will be offered later. That subject has been under consideration in the Senate for a number of years, but no action has been taken.

I do not believe that people ought to be left in jeopardy, or without a forum for the redress of wrongs when the National Labor Relations Board declines to assume jurisdiction and, at the same time, the courts take the position that the States have no jurisdiction.

I agree with my friend from North Carolina with respect to the pending amendment. If I read it correctly, if there is on the books of any State a law which prohibits the right to strike, under the provisions of the bill, if it were enacted into law, the National Labor Relations Act could not affect the State law in that respect. Is that correct?

Mr. ERVIN. That is the way I construe the amendment offered by the able

and distinguished senior Senator from Florida.

Mr. DIRKSEN. The same thing would be true with respect to regulation of the right to strike. The same thing would be true with respect to a modification of the right to strike. The only limitation, then, on the right to strike, with respect to which this amendment would intervene, would be in connection with public utilities, which are defined. It would leave that right uninterdicted in the State with respect to the business of supplying water and the business of supplying light, which, clearly, might be interstate, through a power company operating from one State into an adjoining State.

It would relate to heat. That might mean any heat which is transmitted, whether in a community or otherwise. It would apply to gas. If it applies to gas, obviously the Federal law could not touch the State law with respect to the pipelines which convey the gas to the State. The same is true of electric power. The same is true of passenger transportation service. I do not know where it would stop. Much of the passenger transportation service is certainly in interstate commerce. One segment of it might want to undertake a strike. However, here would be an interdiction in State law. Nothing in the bill, if it were enacted into law, and nothing in the Taft-Hartley law, would affect the interdiction in a State law. That is going pretty far. In my considered judgment, I believe the matter requires a great deal of further consideration by an appropriate committee of the Senate.

Therefore, I intend to vote against the Holland amendment. I believe that the Watkins amendment, which will be offered later, dealing with the area of "no man's land," merits the attention of the Senate now, because it was before the Senate in 1954. It was in the bill which was finally recommitted by a vote of 50 to 42. I believe it is imperative to deal with it, and that it should very properly be incorporated in title VI of the pending bill.

Therefore, I intend to vote against the pending amendment and shall support the Watkins amendment, because the latter is both vital and necessary.

Mr. SMITH of New Jersey. Mr. President, will the Senator yield?

Mr. DIRKSEN. I yield.

Mr. SMITH of New Jersey. I share the view of the Senator. However, so far as "no man's land" is concerned, I am thinking in terms of protecting the recommendation of the McClellan committee.

Mr. DIRKSEN. I might add that this amendment was not requested by the administration insofar as I am familiar with the administration policy. The amendment goes beyond what was requested at any time.

Mr. SMITH of New Jersey. The Senator is correct. I have examined the recommendations of the administration, which I introduced in January, and I have examined the recommendations in the amendments which I have offered to the pending bill, and neither includes these matters. This matter deserves careful study. They should be covered at some time, but not in the pending bill, by means of which we are trying to implement the McClellan recommendations and the recommendations of the President in his message to Congress of this year.

I wish to make this perfectly clear in the RECORD, because I expect to vote against the Holland amendment, although, in principle, I should like to support it. However, I wish to implement the McClellan recommendations and the recommendations of the President.

Mr. DIRKSEN. The domain affected by the Holland amendment is so great, even though I might be committed to it in principle, I believe it requires a great deal of additional exploration before it should have the approval of the Senate.

Mr. COOPER. Mr. President, on its face the amendment seems reasonable, and has appeal. I intend to vote against it, and I wish to give my reasons for voting against it.

It is true, of course, that the Taft-Hartley Act preempts the field of regulation of labor management relations. There is only one section of the Taft-Hartley Act, so far as I know, which excludes the preemption, and that is the one which provides that the States are permitted to enact right-to-work laws. But by reason of the fact that the National Labor Relations Board is unable to consider all cases which come before it, there has arisen what is called a "no man's land," an area in which the Federal Government will not take jurisdiction, and the State courts cannot take jurisdiction. Another issue has developed to which this amendment is directed. Some believe that in emergencies which affect the safety and health of the people they should have the authority to act under their police powers.

In 1954 the Committee on Labor and Public Welfare reported an amendment to the Taft-Hartley Act which would have permitted the States to deal with emergencies in labor disputes when they presented a clear and present danger to the health or safety of the people of a State. The amendment was included in the bill which was recommitted to the committee by the Senate. The amendment itself, of course, would have been before the courts for interpretation and there would have been a determination as to what constituted a clear and present danger to the people.

I should like to point out that the amendment which has been offered by the Senator from Florida goes far beyond the amendment which was offered in 1954. The Holland amendment would permit the State to assume jurisdiction in all cases which deal with public utilities—the furnishing of water, light, heat, electric power, and passenger transportation services. As the Senator from Illinois has said, it would permit State action, even though the industry served several States. It would give to the States in addition, the right to enact laws which could limit strikes, could prohibit strikes, and make laws affecting picketing and boycotts; in fact, it could permit States to set up some kind of Taft-Hartley law, or do away with the Taft-Hartley law in those fields which are named in the amendment.

I point this out to indicate to the Senate that the amendment goes far. Its scope should be understood by the Senate.

For a few moments I wish to address myself generally to the bill. I have no prepared remarks, and my remarks will be short. The bill contains several titles dealing with the protection of union funds, union elections, and the regulation of trusteeships. As I said yesterday, they can be considered to deal with the subject Union Democracy. I believe all of us can agree—including my friend from Arizona [Mr. GOLDWATER]—that, as these titles now stand, after amendment, they are effective in this field.

We now come to a question of policy—a question of judgment—a question which was raised by the distinguished Senator from Arkansas, and which has been discussed by the Senator from North Carolina. Both Senators are members of the select committee. The question now is: Shall we assure the passage of a bill which is important, and which can assure a great improvement in the field of union democracy and in the protection of labor union funds?

Shall we assume this important advance, as far as we can, by passing the committee bill in the Senate? Then perhaps, it will become the judgment of the House, for they are patriotic men, that they too, should consider the bill and pass it, thus making a real advance at this session in setting up machinery to eliminate the abuses that I have heard discussed by the select committee. Or shall we attempt to revise the Taft-Hartley Act; and shall we add amendments, some of them, perhaps, which in their own right should be adopted, and others which ought not to be adopted, and thus so load down the bill that it certainly, even if it passes the Senate—which may be doubtful—cannot receive full consideration by the House Committee on Labor, and probably will not pass the House?

I know the argument can be made to us: "You are evading your responsibility. Your responsibility is to do what is right and what is just. Your responsibility is to take the action in the whole field of labor-management relations."

The argument can also be made: "You cannot predict what the House will do. Your duty is to act on the facts before you." I recognize the fact that these arguments can be made. Yet I know we have to deal with a practical situation. I know something about this subject, because I have served on the Committee on Labor and Public Welfare. While it is not a field in which I have had practical experience, I have been a faithful member of the committee and I have devoted my attention and studied the problems which come before the committee.

Mr. IVES. Mr. President, will the Senator yield?

Mr. COOPER. I yield.

Mr. IVES. I commend the Senator from Kentucky for what he is now saying, and also for the work he has been doing on the Committee on Labor and Public Welfare. Contrary to what he

might try to make people think, he has been a very valuable member of that committee. The ideas which he has expressed have helped us through a great many of our difficulties. I commend him for that. I know that the other members of the committee will agree with me in that statement.

On the question of the legislation about which he is speaking, an eminent Democrat one time made a very sound statement. He said: "We are dealing with a condition, not a theory." The Democrat came from New York State. I always had great admiration for him. That man was Grover Cleveland.

So in this instance, in touching on the proposed legislation, we are dealing with a condition. Legislation is needed. We want a bill, and we want a bill which can be passed under the present conditions.

But, as the Senator from Kentucky has said, if we load the bill with a great many controversial matters, it is doubtful if it will pass the Senate; and I doubt very much, even if it passes the Senate, that it will pass the House. That is the condition which faces us.

Some statements were made a while back about threats being made. It has been said that we must vote for this and vote for that; vote against this, and vote against that. I do not make threats. When I say I will vote against the bill if it contains certain things which I myself cannot approve, I will vote against the bill for those reasons—and I do not say that lightly. That is not a threat; that is a promise. I hope the bill will be in such shape that I can vote for it.

Mr. ERVIN. Mr. President, will the Senator yield?

Mr. COOPER. I yield.

Mr. ERVIN. I join with the able senior Senator from New York in commending the position just taken by the able Senator from Kentucky. The Senator from Kentucky has stated in the most lucid fashion what I consider to be a most sound position.

Mr. COOPER. I thank the Senator. I have had some experience with this matter. In 1947 and 1948 I was a Member of the Senate when it passed the Taft-Hartley Act. I voted for it. In 1953 and 1954, I was a member of the Committee on Labor and Public Welfare after the death of Senator Taft. The committee considered amendments to the Taft-Hartley Act. The amendments were reported to the Senate and were promptly recommitted.

But the atmosphere has changed somewhat. Mr. George Meany, a very outstanding labor leader and statesman, was before the committee, and in response to questions directed to him by the Senator from New York and myself he said it is now the position of the AFL–CIO that they do not favor the repeal of the Taft-Hartley Act, but they now take the position, which many of us have held for a long time, that the question is one of revision. I was glad to hear Mr. Meany make that statement.

Based on the experience I have had in the committee, it has become evident that it is not possible to have legislation enacted unless there is some agreement, some effort from both sides of the body. I pay tribute to the senior Senator from California [Mr. KNOWLAND]. While I voted against his amendments when we were considering the welfare and pension bill because I believed hearings should be held, I doubt if we would have this labor bill before us today if it had not been for the fact that the Senator from California had offered amendments to the welfare and pension bill, and was able to secure the commitment that a labor bill would be reported and voted on.

I would say also that the Senator from Massachusetts [Mr. KENNEDY], has discharged his duty faithfully, honestly, and fairly in the committee, and further, he has brought great knowledge and courage to the difficult issues involved. I believe now that sections 1, 2, 3, and 4 which deal with union democracy, are adequate, are good sections. We have gone far toward making an advance in that field.

I do not take a rigid position. I do not say I will not vote for any amendment. But my desire and my intention are to consider amendments which deal with the subject of union democracy. I do not intend to vote for certain amendments, even though some of them, standing by themselves, are justified, because I believe that if we go far, beyond the field of union democracy, we will have a bill which will not pass, and nothing will be done.

An advance was made this year in the enactment of the welfare and pension fund bill through the efforts of the Senator from New York [Mr. IVES] and the Senator from Massachusetts [Mr. KENNEDY]. We now have the opportunity to assist the unions, union employees, protect union funds, and to encourage advances in the field of union democracy to see this done. Speaking for myself, I do not intend to do a futile thing, destroy the chance to make an advance by voting for amendments about which we cannot agree at this session of Congress.

Mr. JOHNSON of Texas. Mr. President, some distinguished guests are visiting the Senate. The Chairman of the Committee on Foreign Relations desires to present them to the Senate a little later. I shall suggest the absence of a quorum in the hope that, following the quorum call, we may have the yea-and-nay vote on the amendment.

I ask unanimous consent that at the conclusion of the yea-and-nay vote, the distinguished Senator from Rhode Island be recognized for not to exceed 5 minutes, and that he may yield to the Senator from Wisconsin.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSON of Texas. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. PROXMIRE in the chair). Without objection, it is so ordered.

The question is on agreeing to the amendments offered by the Senator from Florida [Mr. HOLLAND] for himself and the Senator from Virginia [Mr. ROBERTSON].

On this question, the yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD. I announce that the Senator from Tennessee [Mr. GORE], the Senator from Wyoming [Mr. O'MAHONEY], and the Senator from Florida [Mr. SMATHERS] are absent on official business.

I further announce that, if present and voting, the Senator from Wyoming [Mr. O'MAHONEY] would vote "nay."

Mr. DIRKSEN. I announce that the Senator from Utah [Mr. BENNETT], the Senator from Vermont [Mr. FLANDERS], and the Senator from Massachusetts [Mr. SALTONSTALL] are necessarily absent.

The Senator from North Dakota [Mr. LANGER] is absent on official business.

The Senator from Arizona [Mr. GOLDWATER] is detained on official business.

The Senator from South Dakota [Mr. CASE] is unavoidably detained.

The Senator from Utah [Mr. BENNETT] is paired with the Senator from Vermont [Mr. FLANDERS]. If present and voting, the Senator from Utah would vote "yea," and the Senator from Vermont would vote "nay."

The Senator from South Dakota [Mr. CASE] is paired with the Senator from North Dakota [Mr. LANGER]. If present and voting, the Senator from South Dakota would vote "yea," and the Senator from North Dakota would vote "nay."

The result was announced—yeas 27, nays 60, as follows:

YEAS—27

Allott	Frear	Mundt
Bricker	Hickenlooper	Robertson
Bridges	Holland	Russell
Butler	Hruska	Schoeppel
Byrd	Jenner	Stennis
Capehart	Lausche	Thurmond
Cotton	Malone	Watkins
Curtis	Martin, Iowa	Wiley
Eastland	Martin, Pa.	Williams

NAYS—60

Aiken	Hayden	McNamara
Anderson	Hennings	Monroney
Barrett	Hill	Morse
Beall	Hoblitzell	Morton
Bible	Humphrey	Murray
Bush	Ives	Neuberger
Carlson	Jackson	Pastore
Carroll	Javits	Payne
Case, N. J.	Johnson, Tex.	Potter
Chavez	Johnston, S. C.	Proxmire
Church	Jordan	Purtell
Clark	Kefauver	Revercomb
Cooper	Kennedy	Smith, Maine
Dirksen	Kerr	Smith, N. J.
Douglas	Knowland	Sparkman
Dworshak	Kuchel	Symington
Ellender	Long	Talmadge
Ervin	Magnuson	Thye
Fulbright	Mansfield	Yarborough
Green	McClellan	Young

NOT VOTING—9

Bennett	Goldwater	O'Mahoney
Case, S. Dak.	Gore	Saltonstall
Flanders	Langer	Smathers

So the amendments offered by Mr. HOLLAND for himself and Mr. ROBERTSON were rejected.

Mr. PASTORE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. KENNEDY. Mr. President, I move to lay that motion on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table.

The motion to lay on the table was agreed to.

VISIT TO THE SENATE BY MEMBERS OF PARLIAMENTS OF COUNTRIES OF NORTH ATLANTIC TREATY ORGANIZATION

The PRESIDING OFFICER. Under the unanimous-consent agreement previously entered into, the Senator from Rhode Island [Mr. GREEN] is now recognized.

Mr. JOHNSON of Texas. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSON of Texas. I ask that we have order in the Chamber.

The PRESIDING OFFICER. Senators will desist from conversation.

Mr. JOHNSON of Texas. Mr. President, under the unanimous consent agreement, I understand the Senator from Rhode Island, the distinguished chairman of the Foreign Relations Committee of the Senate, is to be recognized.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. GREEN. Mr. President, we are honored today to have visiting us in the Senate some 40 members of the parliaments of the countries of the North Atlantic Treaty Organization. They have just completed a tour of the United States Strategic Air Command Headquarters in Omaha, Nebr., and the headquarters of the Supreme Allied Command of the Atlantic in Norfolk, Va.

Many of our guests participated in either the 2d or 3d NATO Parliamentary Conferences, held in Paris in 1956 and 1957, which were attended also by delegations from the United States Senate and House of Representatives. I had the privilege of serving as chairman of the United States delegations to both conferences.

Our guests are standing in the rear of the Chamber, and I ask that they be recognized, and that we heartily welcome them.

[Applause, Senators rising.]

Mr. WILEY. Mr. President, representing the minority party in the Senate, as well as, I trust, the majority party in this instance, I am happy to join with the chairman of the Committee on Foreign Relations in welcoming this distinguished group into our sacred hall, so to speak.

Gentlemen, you come from 17 different countries. America is glad to know you have come to get acquainted with us and to see the kind of folk we are.

We know that you as members of NATO have a tremendous task on your hands. We join with you in seeking to make sure that peace shall prevail on earth. That is one of the greatest endeavors in which man can engage today.

I, too, say "Welcome to God's country."

[Applause, Senators rising.]

ORDER FOR ADJOURNMENT UNTIL TOMORROW AT 10 A. M.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that when the Senate concludes its deliberations today it stand in adjournment until tomorrow at 10 a. m.

The PRESIDING OFFICER. Without objection, it is so ordered.

LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT OF 1958

The Senate resumed the consideration of the bill (S. 3974) to provide for the reporting and disclosure of certain financial transactions and administrative practices of labor organizations and employers, to prevent abuses in the administration of trusteeships by labor organizations, to provide standards with respect to the election of officers of labor organizations, and for other purposes.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. WATKINS. Mr. President, I call up my amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated for the information of the Senate.

Mr. WATKINS. Mr. President, may we have order? I should like to have the Members of the Senate hear the amendment.

The PRESIDING OFFICER. The Senate will be in order.

The CHIEF CLERK. On page 36, lines 21 through 25, and page 37, lines 1 through 10, it is proposed to strike out all of section 602 and insert in lieu thereof the following:

Sec. 602. Section 14 of the National Labor Relations Act, as amended, is amended by adding a new subsection (c) as follows:

"(c) Nothing in this act shall be deemed to prevent or bar any agency, or the courts, of any State or Territory from assuming and asserting jurisdiction over labor disputes over which the Board by rule or otherwise has declined to assert jurisdiction."

Mr. WATKINS. Mr. President, I wish to make a brief explanation of the amendment before I proceed to a general discussion.

This amendment would amend S. 3974 to deal more effectively with the problem of the "no man's land" in the regulation of labor relations. This gap exists because of the exercise of administrative discretion by the National Labor Relations Board in asserting jurisdiction over matters coming within the coverage of the act and the effect of Supreme Court decisions excluding the States from taking jurisdiction of such matters.

Section 602 of S. 3974 would forbid the Board to "adopt any rule of decision, regulation, standard or policy" which would preclude it from taking jurisdiction where necessary to safeguard the rights of employer or employees under the act. This amendment, instead, would permit any State agency or court to act with respect to labor disputes over which the Board declines in any manner to assert jurisdiction. It would not curtail the Board's present authority to decline to assert jurisdiction when it determines that it would not effectuate the purposes of the act to do so.

Mr. President, the amendment is very simple. It is stated in language anyone can understand.

Mr. KNOWLAND. Mr. President, will the Senator yield, so that I may ask for the yeas and nays on his amendment?

Mr. WATKINS. I yield for that purpose, Mr. President.

Mr. KNOWLAND. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER (Mr. MORTON in the chair). Is there a sufficient second?

The yeas and nays were ordered.

Mr. KNOWLAND. I thank the Senator from Utah.

Mr. WATKINS. Mr. President, I started to say that the amendment is couched in very simple language. It refers to the situation which occurs when the National Labor Relations Board does not have jurisdiction or declines jurisdiction on a matter arising in a State. The amendment gives to the State boards jurisdiction over labor disputes over which the Board by ruling or otherwise has declined to assert jurisdiction. That is about the simplest form I have been able to find which meets the necessities of the situation.

Mr. President, in previous presentations on this subject both on the floor and before the committee, passing reference has been made to positions that have been previously taken with regard to solving this "no man's land" question. I would like to bring together now all of the history—or at least part—of this problem so that my colleagues who will soon be called upon to cast their vote "yea" or "nay" in this issue may do so in the light of facts rather than in the light of preconceived determinations which may or may not have been arrived at on the basis of emotion or political expediency.

Mr. President, I respectfully ask that we have order in the Chamber.

The PRESIDING OFFICER. The Senate will be in order.

Mr. WATKINS. I find the competition a little too keen for me to cope with, and that is the reason I ask for order.

The PRESIDING OFFICER. The Senator from Utah may proceed.

Mr. WATKINS. Mr. President, in passing the Taft-Hartley Act we consistently attempted to equalize the protection of labor laws so as to give employers and employees equal rights to relief from excesses and abuses. The law has stood the test of time quite well, has afforded relief in many areas, and has restored to a great degree the mutuality in the law which had been missing theretofore. The Taft-Hartley Act, however, as interpreted by the Supreme Court, has withdrawn the protection of the State courts which previously existed. Therefore, there is no prompt remedy in many cases. Likewise, there is uncertainty rather than certainty in par-

ticular areas and there is a total lack of an effective remedy in others.

Most distressing, however, is the "no man's land," which now exists where there is no remedy at all. In this area, as one witness before the committee testified, "Victory goes to the strong, not to the just." The Supreme Court, in the Guss case, which arose in Utah, recognized that only Congress can effectively supply a solution for this problem. Specifically the Supreme Court said, "Congress is free to change the situation at will." I think that was an invitation on the part of the Supreme Court to act in this field. I submit that now is the time for Congress to express that will.

Prior to 1953 the State court jurisdiction was effectively used to obtain relief in many of these labor disputes; however, the Supreme Court in the Garner case effectively wiped out all State laws as applied to interstate businesses. These were laws which in many instances predated the Federal act, and in many States the relief which was available was obtained through the injunctive process based upon common law. Subsequent to the Garner case the Supreme Court handed down three decisions on March 25, 1957, including Guss against Utah Labor Relations Board, which established the fact that in any labor dispute affecting interstate commerce, neither a State court nor a State agency has jurisdiction, notwithstanding the fact that the NLRB declines to assert jurisdiction in the case, on the ground that it would not effectuate the policies of the act for it to do so. Thus the Court held that only by use of section 10 (a)—authorization to cede jurisdiction—can the States obtain jurisdiction over such disputes and this the Supreme Court did despite the fact that the limits in section 10 (a) themselves have made it impossible for the Board to cede jurisdiction to any State.

On January 11, 1954, President Eisenhower submitted a number of legislative recommendations calling for amendment to the Taft-Hartley Act. Among those recommendations was one to permit the States and Territories to deal with labor disputes or classes of cases over which the Board has refused to assert jurisdiction. In April of that year the Senator from New Jersey [Mr. SMITH] submitted the report of the committee on Labor and Public Welfare on S. 2650, which contained language permitting agencies or courts of any State or Territory to assume and assert jurisdiction of any labor dispute or class of cases over which the Board had declined to assert its own jurisdiction.

Six members of the committee filed minority views on that bill and with respect to this subject of "no man's land" I refer to the minority views which were printed as part 2 of Senate Report No. 1211, 83d Congress:

> We agree with the committee majority that a problem now exists with regard to the commerce jurisdiction of the Federal Board on the one hand and State agencies and courts on the other. That problem comes about because the Federal Board now has, and now exercises, discretion to decline to take cases within its jurisdiction—the power which the majority proposal would explicitly confer on the Board. When the Federal Board refuses to take a case within its jurisdiction, the State agencies or courts are nevertheless without power to take jurisdiction, since the dispute is covered by the Federal act, even though the Federal Board declines to apply the act. There is thus a hiatus—a no man's land—in which the Federal Board declines to exercise its jurisdiction and the State agencies and courts have no jurisdiction.

The Members found fault with the administration's proposal at that time for two specific reasons. The Members I am talking about, of course, are the minority Members whom I have just quoted.

The reasons were:

> (1) The parties should know in advance whether their dispute is going to be decided under Federal law or State law. In no single case does a State labor relations law contain the same provisions as Taft-Hartley. If the parties do not know in advance what law governs their dispute, they cannot know how they must act in order to act lawfully.
>
> (2) The procedure proposed by the majority would make for delay. Every case would have to be taken before the Federal Board first, for it to decide whether or not to take jurisdiction. That might take months or even years. Then, if the Federal Board declined to act, it would be necessary to start over before the State boards or courts.

The solution suggested at that time by Senators Hill, Murray, Douglas, Lehman, Neeley, and Kennedy was "that the jurisdiction of the Federal Board be explicitly defined, that it be required to take all cases within that jurisdiction, and that all other cases be left to the jurisdiction of State agencies and courts."

Needless to say, much valuable time has been lost since that bill we recommitted on a vote of the Senate, so we are now restudying the same subject in 1958 that could have been settled in 1954. On April 28 I argued here on the floor the case for this same amendment. I was put off by the argument that "it needs further study. We will take care of the situation when a general bill is before the Senate." My argument appears on pages 7494–7503 of the CONGRESSIONAL RECORD.

Mr. President, I ask unanimous consent to have that discussion printed in the RECORD at the conclusion of my remarks and to have it marked "Exhibit No. 1."

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WATKINS. The Guss case, to which I have previously referred, was explained in considerable detail in my testimony before the Senate subcommittee and appears in the printed hearings commencing on page 421. Rather than explain that case again at this time, I ask unanimous consent to have my statement before the Senate subcommittee, which held hearings on the bill now before us, printed in the RECORD as exhibit No. 2 at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. WATKINS. Let us analyze the provisions of the pending bill dealing with this no man's land question to see whether it carries out the previous declaration of intent as expressed in the minority views on S. 2650 of the 83d Congress and whether or not it will solve this no man's land problem which is universally recognized by all to exist and to require an effective solution. In analyzing section 602 commencing on page 36 of the pending bill, the first question which requires answering is: Is the jurisdiction of the Federal Board explicitly defined? Let me read the language of the pending bill:

> SEC. 602. Section 6 of the National Labor Relations Act, as amended, is amended by inserting before the period at the end thereof a colon and the following: *"Provided,* That the Board shall not adopt any rule, regulation, standard, rule of decision or policy which is intended or has the necessary tendency or effect of precluding the Board from taking appropriate action in cases involving recognition or certification of employees for purposes of collective bargaining (pursuant to sec. 9) or the commission of unfair labor practices (listed in sec. 8) affecting commerce, when such action is necessary to safeguard the rights of employers or the rights of employees to form or join unions, to bargain collectively through representatives of their own choosing or to engage in other concerted activities for their mutual aid or protection, or to refrain therefrom, as provided in section 7."

That does not stop the Board from making a decision in any individual case, declining jurisdiction or accepting jurisdiction. It merely prohibits the Board from establishing any standards or general policies which would bar it from accepting jurisdiction or from proceeding under the jurisdiction which has already been given it by the Taft-Hartley Act. In other words, it is a prohibition against the Board adopting any general standards which might guide management, labor, or the general public. But, as I understand that section, the Board is not prohibited from deciding, in each case, whether or not it will assume jurisdiction or will cede jurisdiction to State boards or courts.

I cannot imagine anything more confusing than that. It would require any litigant, union, management, company, or employer to go first to the National Labor Relations Board to see whether or not it would accept jurisdiction or whether it would cede jurisdiction. Such a process would be costly, and in the case of small business it would be prohibitive. When the litigant came before the Board, he might find, after all, that the Board would not accept jurisdiction, but would cede it.

If it did not cede it, under the decisions of the Supreme Court, the State labor board would have no jurisdiction, and the State courts would have no jurisdiction.

That is the impossible situation we are trying to correct. The bill does not correct it. I wish to point out that the amendment adopted by the committee does in effect go into the very problem into which, it is said by some members, we should not go at this time. The committee does go into it. The committee provides a remedy which is more confusing than the situation is today. Yet it is said we must not propose any amendment, because the bill might be loaded down and defeated.

I should like to call attention to the fact that the evidence is overwhelming

that there is a need for my amendment. It comes within the purview of the investigation made by the select committee of which the distinguished Senator from Arkansas is chairman. When I speak of him, I do so with great admiration for the splendid manner in which he has conducted the investigation, and with profound respect for his judgment. I call attention to the statement in the interim report at page 452. I refer to the statement on the no-man's-land question. It reads:

Testimony before the committee revealed that some employers have had no access to either the National Labor Relations Board or any comparable State agency. In many instances it was found that the fact that the National Labor Relations Board does not take jurisdiction in certain cases does not automatically turn over the case to a State board.

That statement is significant, and I should like to have the Members of the Senate who are present pay attention to it.

The statement in the report continues:

In the committee's inquiry into activities in the New York area it was shown that exploitation of workers and circumvention of legitimate labor organizations were made possible because employers had no recourse to any governmental agency. To solve the no-man's-land problem, therefore, it is recommended that the NLRB should exercise its jurisdiction to the greatest extent practicable, and, further, that any State or Territory should be authorized to assume and assert jurisdiction over labor disputes over which the Board declines jurisdiction.

With that kind of language in the interim report, I am unable to understand how any member of the committee, who heard the testimony, could say that we are getting into another field when we propose an amendment such as this, particularly when it is the definite finding of the committee that the conditions in the New York area existed largely because employers had no recourse to any governmental agency.

Then the report suggests a remedy to solve the no-man's-land problem. It states that the National Labor Relations Board should exercise its jurisdiction to the greatest extent practicable, and, further, that any State or Territory should be authorized to assume and assert jurisdiction over labor disputes over which the Board declines jurisdiction.

That is precisely what my amendment provides. It is the answer to the problem stated by the committee after it had conducted its investigation. The subcommittee and the full committee have gone into that field. They have now come up with a wishy-washy amendment, which prescribes standards which people are expected to interpret in order to give them an indication of where jurisdiction lies, and which law they should follow. It is a generalized statement, which means that the decision will be made in each individual case, and that jurisdiction may be taken or may not be taken. That is the kind of situation we now have. It seems to me that the recommendation made by the select committee in its report is absolutely unanswerable, and should be adopted.

The best that can be said for this section is that it explicitly defines jurisdiction in cases involving recognition or certification of employers for purposes of collective bargaining; or second, the commission of unfair labor practices affecting commerce. But the section goes on to limit this definition of jurisdiction to cases where the action of the Board is necessary to safeguard the rights of employers or employees: First, to form or join unions; second, to bargain collectively through representatives of their own choosing; or third, to engage in other concerted activity for their mutual aid or their protection, or to refrain therefrom.

Under that section, the Utah union, which had a controversy with Mr. Guss, would have had to come to Washington, to the National Labor Relations Board, to find out whether the Board had jurisdiction or did not have jurisdiction. If the NLRB had decided that they would not take jurisdiction, the representative of the Utah union would have had to return to Utah without any relief, and then, under the Supreme Court decision, they would not have been able to get any relief in the State courts. That was exactly what happened in the Guss case, so this proposed committee language solves nothing.

This is one interpretation of the committee's language. Another interpretation is expressed by the majority of the committee commencing on page 41 of the committee report. I asked my colleagues to consider this language, to interpret it themselves, and to determine fairly whether or not this is what you would call an explicit definition. I submit without intent to impugn the good intentions of the members of the committee, that this is neither explicit nor definite. Rather, I submit that it will lead to more confusion, more litigation, and more delay, the results of which will be frustration, confusion, and hardship and ultimately will require this body to once again legislate to close this no man's land gap.

The second question to be determined then is: Does this language require the board to take all cases within that jurisdiction and does it leave all other cases to the jurisdiction of State agencies and courts? Without rereading the language, I direct the attention of my colleagues to what has already been studied, and I submit that while it may require the Board to take jurisdiction of all cases within its interpretation of the breadth of this additional language, no businessman and no labor union official can at this time specifically determine whether or not his case falls within or without the definition of the jurisdiction of the NLRB, and I submit that under the decision of the Guss case all other cases not specifically covered by even the most broad interpretation of this language would still fall into no man's land. How much of the vacuum has therefore been removed we cannot predict. I submit, however, that we can with reasonable assurance predict that we have here a proposal which will stimulate a tremendous amount of legislation. On May 12 Mr. Harry L. Brown, appearing before the subcommittee in behalf of the American Retail Federation had the following to say concerning the Watkin's bill, the substance of which is being proposed in my amendment.

Mr. Brown's statement consists of five pages, and I do not care to read them to the Senate. However I ask unanimous consent that the statement may be printed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

THE JURISDICTIONAL VOID IN LABOR DISPUTES

The Taft-Hartley Act was supposed to equalize the protection of labor laws so as to give employers and employees some rights to relief from labor union excesses. It did afford some relief and restored a degree of mutuality in the law which had been completely missing under the Wagner Act. However, the Taft-Hartley amendments had one unfortunate effect which the framers and Congress did not intend, and that was to withdraw the protection of the State courts to employers in many situations where union conduct was actually in violation of State law. It has some other unfortunate side effects also. Where there is need for a prompt remedy, there is delay. Where there is a need for certainty, there is uncertainty. Where there is a need for an effective remedy, the remedy is often ineffective. And frequently, there is no remedy at all for admittedly illegal conduct—a no man's land where the victory goes to the strong, not to the just. This is the result of Federal preemption. Only Congress can effectively provide the solution for this urgent problem which an analysis of the preemption cases will readily demonstrate.

In the great majority of the States employers were able to obtain relief from such picketing in their local courts prior to 1953. During that year, however, the Supreme Court by its decision in the Garner case effectively wiped out all State laws as applied to interstate businesses. These State laws were not peculiar to any section of the country. Picketing in the absence of a labor dispute was prohibited, for example, in Arizona, Missouri, Minnesota, South Dakota, Texas, Wisconsin, and many other States. Many States have no statutes on the subject but injunctions could be obtained under the common law. Ohio is an example of such. Since the Garner decision, however, State courts have been deprived of the power to act.

Under its present jurisdictional standards, the NLRB does not take jurisdiction over many retail stores. But that does not mean that State court relief is obtainable. The United States Supreme Court, in three decisions rendered on March 25, 1957, decided that in any labor dispute affecting interstate commerce, neither a State court nor State agency has jurisdiction, notwithstanding the National Labor Relations Board declines to assert jurisdiction in the case on the ground that it would not effectuate the policies of the act for it to do so. *Guss* v. *Utah Labor Relations Board* (353 U. S. 1); *Amalgamated Meat Cutters* v. *Fairlawn Meats* (353 U. S. 20); *San Diego Building Trades Council* v. *Garmon* (343 U. S. 26). The Court held that section 10 (a) of the NLRA provides the only means whereby the National Board may cede jurisdiction to a State over labor disputes falling within the purview of the National Act. The Court so held despite the fact that the limitations of section 10 (a) are such that the Board has been unable pursuant thereto to cede jurisdiction to any State.

The result of these decisions is to create a no man's land for many labor disputes. The National Board declines jurisdiction because the impact upon commerce is insubstantial and yet neither a State court or agency can act. Many employers, employees, and unions are thus deprived of any forum of which to seek relief even though their rights are being

violated. It is doubtful if any industry is harder hit by these decisions than the retail industry. The Board's jurisdictional standards exclude all but the interstate chains and the larger department stores.

Of course, the American Retail Federation would prefer legislation such as introduced by Senator GOLDWATER in the last Congress which would have given concurrent jurisdiction to the States in strike and picketing. We would also prefer passage of S. 337 introduced by Senator MCCLELLAN and others which would permit the States to act in the absence of an expressed contrary intent in a Federal statute which was assigned to the Judiciary Committee. We believe it is most important in strike and picketing situations particularly, that State courts and boards be reinvested with their traditional right to exercise jurisdiction where the conduct is violative of State law. However, since neither of these approaches appear to be considered in this Congress and because of the desperate need to fill the jurisdictional void this year, we turn to the Watkins bill, S. 1723. This bill would give statutory authority to the NLRB to establish dollar volume jurisdictional standards and then permit the States to act when an employer's business fails to meet such standards.

The ARF endorses the Watkins bill. It believes that if a person is aggrieved by illegal conduct of another, he should be entitled to appeal to some forum—State or Federal—to obtain relief. If the NLRB door is closed to him, he must be able to appeal to a State agency or court. Otherwise, although he is an innocent party, he is compelled to suffer the unlawful conduct without redress.

There is no possibility of conflict between State and Federal authority, where the Federal authority lies dormant and unexercised and the Federal Board has announced that it will not proceed in a given area.

Unless the Watkins bill is enacted it will almost compel the National Board to take jurisdiction of all cases affecting interstate commerce. We believe that such action would so bog down the Board with many cases that it will be unable to carry out the policies of the act in much more important cases where really serious threats to interstate commerce are presented and frustrate the proper administration of the National Act.

The *Guss* case (353 U. S. 1), and related cases as we have mentioned rocked the foundations of our American system of jurisprudence. States were not permitted to act even in cases where the NLRB declined jurisdiction. The employer, as well as the employees, were helpless. He could get no relief from the Board. He was denied the right to seek relief from the State courts. There was a wrong, but no remedy. He must stand by and watch his business destroyed by one who is immune from the law. Nature abhors a vacuum, it is said, and she must be very disturbed by the current situation. One Michigan court judge was so offended by the inequity of the situation brought about by the Supreme Court's extension of the Federal preemption doctrine that he simply refused to follow it, *Johnson* v. *Grand Rapids Building & Construction Trades Council* (decided Sept. 7, 1957, 33 Labor Cases, para. 70, 996). He granted relief on the theory that application of the preemption doctrine to cases where the Board will not act is a violation of the fifth amendment. He said: "Nature abhors a vacuum as does the law. Absence of any legal process is anarchy." The judge was right philosophically and basically, but not legally. His reliance upon the fifth amendment to circumvent the Supreme Court's holding will not, unfortunately, stand up on review.

In labor-management relations today, as one court has already pointed out, "Employer-employee relationships revert to unsupervised jungle where decisions go to the strong and ruthless," *Ringling Bros.* v. *Lewis* (37 LRRM 2810).

Mr. MUNDT. Mr. President, will the Senator yield?

Mr. WATKINS. I yield.

Mr. MUNDT. Does the language mean that the National Labor Relations Board must affirmatively decline to assert jurisdiction, or would mere failure to assert such jurisdiction be sufficient to permit the State agency to proceed?

Mr. WATKINS. Is the Senator referring to the language of my amendment?

Mr. MUNDT. Yes.

Mr. WATKINS. As to the classifications mentioned in the bill, the bill specifically does not allow the State courts to have jurisdiction.

Mr. MUNDT. I am wondering about cases in which the National Labor Relations Board has not acted, either because of an inadequate staff, a heavily encumbered calendar, or for any other reason. Do such cases simply simmer on the back of the stove, without any action by the NLRB, one way or the other?

If the wording were "declined and failed," I would understand exactly what was meant. But when it is "declined," it means that the Board must have affirmatively refused to rule that the matter is outside their jurisdiction, before the court would have any authority.

Mr. WATKINS. It might mean that the Board was very busy; that the matter was a minor one; that it was more of an intrastate dispute than an interstate one. It might be for any one of those reasons.

Mr. MUNDT. Yes; but there must be some kind of action before the States are permitted to function by themselves.

Mr. WATKINS. That is correct. The States could not take jurisdiction of a case where the Board had not yet acted, and had not given any definite indication that it was not going to act. I think the States would be in trouble if, for instance, a matter came before the Board, and because the Board was dilatory in acting, the States thought they could act. I think that would create a great deal of trouble. So there must be some positive act to indicate that the Board had declined to act.

Mr. MUNDT. There must be a positive action showing a declination to act.

Mr. WATKINS. I think that is correct. They must do it by rule or otherwise. They do it by a decision, so as to declare and assert jurisdiction. I can imagine circumstances in which a court might find, by reason of the Board's conduct, without its having said so in so many words, that the Board had declined, in effect, to act. However, that is a field in which there might be some dispute as to whether the Board had declined or not.

Does the Senator from Connecticut wish me to yield to him?

Mr. BUSH. I have a brief statement I wish to make in support of the Senator's amendment, after the Senator has finished.

Mr. WATKINS. I have not quite finished.

Mr. SMITH of New Jersey. Mr. President, will the Senator yield for a question?

Mr. WATKINS. I yield.

Mr. SMITH of New Jersey. There is a point I desire to make clear; I do not know whether the Senator brought it out. The language of the amendment, if I am correct, is the same as the language in the bill which was presented to amend the Taft-Hartley Act in 1954, which bill was recommitted to the committee.

Mr. WATKINS. I am advised that that is correct in substance.

Mr. SMITH of New Jersey. Is the Senator aware of the fact that the bills I introduced on behalf of the administration this year, covering the administration's recommendations, included this proposal, and in the language the Senator has in his amendment?

Mr. WATKINS. I am advised that that is a correct statement.

Mr. SMITH of New Jersey. I introduced the bills, so I know that is a correct statement. They indicate the administration's position. The issue is whether when the NLRB declines jurisdiction in certain cases, the States will be allowed to assert jurisdiction.

Mr. WATKINS. The National Labor Relations Board may be too busy; it may not have sufficient personnel; it may think the matter is too trivial; it may think that it has more intrastate aspects than interstate. Then the parties are completely lost.

Mr. SMITH of New Jersey. That is the whole point. The parties are lost. When the NLRB has not acted or could not act, then should the States be excluded from exercising control, or should the State be in a position to give assistance to the person who desired relief? As I have just said, the President of the United States in his messages has favored State solution of the matter. The McClellan committee, after discussing the question at some length, sought to solve the no-man's-land problem. Therefore, it has recommended that the NLRB should exercise its jurisdiction to the greatest extent practical; and furthermore, that a State or Territory should be allowed to assume or assert jurisdiction over labor disputes over which the Board has declined jurisdiction.

Mr. WATKINS. That is correct.

Mr. SMITH of New Jersey. In other words, the McClellan committee, and also the President of the United States, favor the solution of having the States exercise jurisdiction in cases in which the NLRB does not act.

Mr. WATKINS. I agree with the Senator. I point out that this is a case in which we are not entering into a new field. This is a case in which the Committee on Labor and Public Welfare made a report and attempted to do something about it. But what it pretends to do would be worse than the situation which now exists. Here is a situation in which we should endeavor to protect hundreds of thousands of American citizens in the rank and file of labor and management—the latter mostly in small business—who do not have any remedy whatsoever. Under that kind of situation in New York, the committee found, racketeers, exploiters, and crooks got into the game because neither side had a remedy, there was nothing that could be done about it.

Mr. SMITH of New Jersey. I agree with the Senator completely.

Mr. WATKINS. That is the situation which exists now. It is a situation which demands action now. We cannot let racketeering go on because of the failure to make the law clear about jurisdiction, and the failure to give the State courts the power to settle disputes when the Federal courts hold that the NLRB will not or has not taken jurisdiction. We must do something about it. The situation is crying for some kind of remedy. The language of the committee bill will not correct; it will simply confuse the situation more and more.

Mr. SMITH of New Jersey. Since the Supreme Court decision which held that the Federal courts and the Federal agencies have jurisdiction, the States are out of the picture.

Mr. WATKINS. That is correct.

Mr. SMITH of New Jersey. While the Senator from Utah said—and I think he was correct—that the language we are considering would not cure the trouble which the Senator from Florida [Mr. HOLLAND], in his recent amendment, was trying to have corrected, nevertheless it is true that the same principle is involved: Shall a State court be allowed to act in a case where there is doubt about jurisdiction?

Mr. WATKINS. That is correct.

Mr. SMITH of New Jersey. This amendment would settle the matter, so far as the NLRB deficiencies are concerned, and by implication would settle the matter in other cases.

Mr. WATKINS. It has beeen arguced on the floor of the Senate today that we should study the proposal; that we ought to know more about its effect.

We have had a committee in session for a long, long time. The committee found that there is a vacuum which is responsible for some of the corruption which is occurring in New York State and possibly elsewhere. It seems to me that my amendment is so clear that there should be no difficulty about acting on it now.

When the matter was brought up before, at the time the welfare bill was before the Senate, we were, in effect, although not in express language, told, "No. We will take care of this when we begin to study the situation. Then we will make recommendations to take care of it." But the committee has not taken care of it. They have left the matter in worse condition.

In Utah we have a State labor relations board and courts which are competent to take care of situations of this kind. One of them will handle a case when the Federal body will not.

It seeems to me that what is sought to be done now, in effect, is to say to the States of the Union, as far as we can go by provision, or at least with reference to rules, standards, and general policies, we will prohibit the States from having any say in labor-management matters. It seems to me to be a very adroit attempt to say to the States of the Union, "You cannot get into this." The only thing which was left open was the making of a decision in each case by the NLRB. The States were prohibited from taking action in the other fields which are most important in labor relations.

Mr. SMITH of New Jersey. In that situation, opportunity was opened for a no man's land.

Mr. WATKINS. There is a denial of justice and a denial of a right to go to the courts. American citizens, both in labor and management, are deprived of their right to litigate their disputes in the courts of the State and Nation.

Mr. SMITH of New Jersey. Mr. President, I am glad the Senator from Utah has submitted the amendment. I believe it is sound; and I am in entire agreement with him on it; and I believe I speak for those in the Department of Labor and elsewhere who have studied this matter.

Mr. WATKINS. Mr. President, I hope the committee will be magnanimous in regard to this matter, and thus will accept the amendment, because it seems to me that what the amendment attempts to do is no more than what the Senator from Massachusetts [Mr. KENNEDY] and the other minority Members said should be done in 1954. So I cannot quite understand the reason for the reversal of that position at this time.

Mr. COOPER. Mr. President, will the Senator from Utah yield to me?

The PRESIDING OFFICER (Mr. MORTON in the chair). Does the Senator from Utah yield to the Senator from Kentucky?

Mr. WATKINS. I yield.

Mr. COOPER. Mr. President, a few minutes ago, in the course of the debate, I said I wanted the Senate to pass a bill which would deal with the questions of union democracy and also the proper management of union funds, and for that reason would not vote for amendments, which I believed would, though written, deny the passage of a bill.

I must say that I consider the subject which the amendment raises within the scope of my statement, because if in any situation—an individual or a union—labor or management is denied access to the courts, fundamental rights are denied.

So if an appropriate amendment is proposed, I shall feel constrained to vote for it.

The committee considered this matter. The proposition is not quite as simple as the Senator from Utah, with all his great ability, has made it out to be.

The Supreme Court has passed on this matter. The Senator from Utah is familiar with the Supreme Court's decision, because the case arose in his own State.

I do not think the Senator from Utah should say that the committee is responsible for this situation. When the Congress passed the Taft-Hartley Act, it gave the Federal Government plenary power of regulation in the field of labor-management relations in industries affecting interstate commerce. The Taft-Hartley Act also contains a provision that in the event the National Labor Relations Board wishes to do so, it can cede its authority to State agencies, if they adhere to the same standards prescribed by the Taft-Hartley Act or to standards which are at least equal to them.

Mr. WATKINS. Or, in other words, even better standards.

Mr. COOPER. Yes. Only a few States have adopted such standards.

The difficulty—the no man's land—occurs because there has been such a multitude of cases that the National Labor Relations Board has not been able to take jurisdiction of all of them.

Further, the Board has set up its own standards, which have removed some cases from its jurisdiction. The Supreme Court has not passed on the question whether the Board has the right to deny its jurisdiction by setting up standards.

I would not be too critical of the language included by the committee, because, in effect, it says that the National Labor Relations Board cannot set up standards which exclude cases from consideration by the Board, but that the Board is under the duty of considering them.

Still the question arises, Does the Board have the staff and the funds which it must have if it is to do the job properly? The Board says it does not have the necessary funds or the necessary staff, and that the Congress has denied it sufficient funds to enable it to do the job properly.

Mr. WATKINS. I think that language is also susceptible of the interpretation to which I have referred.

Mr. COOPER. Mr. President, I should like to ask the Senator from Utah a question. I am not afraid of the judgment of the State courts. Like the Senator from Utah, I was once a circuit judge; and I think he and I know that judges try to do their duty. But they must have some standards to follow.

What standards would the courts follow if his amendment is adopted? Does the Senator intend that State courts would follow the standards prescribed by the National Labor Relations Act, the decisions of the Supreme Court, and the decisions of the National Labor Relations Board interpreting the Taft-Hartley Act if his amendment should be adopted? Or would the State courts follow standards of their own, based on State law?

Mr. WATKINS. I cannot answer that question.

Mr. COOPER. But we can make legislative history regarding that point.

Mr. WATKINS. In the case of Utah, for instance, I believe the State courts have standards which are comparable to those established by the National Labor Relations Board, and I assume that the courts have attempted to apply those standards. In doing so in this particular case, they upheld the contention of the labor union; and later the Utah Supreme Court upheld the decision of the Utah board.

Mr. COOPER. But I respectfully submit that the Senator's amendment, if adopted, would turn over to State courts the jurisdiction of cases arising under the Taft-Hartley Act. In that event, what standards would they follow?

Mr. WATKINS. I would assume that in cases which arose under the Taft-Hartley Act they would apply the stand-

ards of that act. But in the absence of enactment of the amendment, they would have no standards and no rule, and thus could not act at all.

Mr. COOPER. The Taft-Hartley Act not only gave full power to the Federal Government, but also indicated that there should be uniformity in its application. So I believe the Senator from Utah should make clear whether his amendment, if adopted, would require the State courts to follow the Taft-Hartley Act and the interpretations made by the National Labor Relations Board and by the courts. If the Senator's amendment does not mean that, of course, there could be different interpretations in every State of the Union.

Mr. WATKINS. Of course that is true; and of course the State courts would have to have some regard for State law, as well, if they were to have jurisdiction. But I assume that if a case arose, as the Senator from Kentucky suggested a moment ago, under the Taft-Hartley Act, they would be required to follow the decisions of the Supreme Court in connection with application of the standards provided by that act.

Mr. COOPER. If the amendment were adopted, many of the cases would go to the State courts, or to justices of the peace—who while men of judgment—do not deal with labor law.

Mr. WATKINS. I doubt that they would go to justices of the peace.

Mr. COOPER. They might, in such cases involving picketing, and similar matters.

Mr. WATKINS. Not in Utah; and I doubt that they would in other States.

Mr. COOPER. But there must be some standards. That is why I ask my able friend, who is a great lawyer, to state whether the amendment proposes that there be uniformity of standards, regardless of the court which may handle the cases.

Mr. WATKINS. I think that would be desirable, although the amendment does not so state in direct terms. But I believe a fair interpretation of the amendment would be that if a case arose under the Taft-Hartley Act, the courts would be required to use the standards of that act, and also that the intermediate appellate courts would adhere to those standards.

Mr. ALLOTT. Mr. President, will the Senator from Utah yield to me?

Mr. WATKINS. Mr. President, first, I should like to have the Senator from Kentucky conclude, because what he has been saying is very important.

Mr. COOPER. Then I think the Senator from Utah should state clearly that it is his intent that if the amendment is adopted, there should be uniform standards throughout the United States.

Mr. WATKINS. The reason why I am not going the full distance the Senator from Kentucky wishes me to go is that only recently the Supreme Court of the United States has decided that those who are involved in such disputes may go into the State courts—something which never has been done before. That decision seems to indicate that the act itself is not all-embracing and is not the last word in regard to labor disputes and individual rights in that connection.

Mr. COOPER. There is a line of such decisions, in which the Supreme Court has held that it did not arrive at its decisions on the basis of the Taft-Hartley Act but, instead, arrived at them on the basis of State law. If the Taft-Hartley Act had been applicable, it could not have so decided.

We are dealing with only one class of cases, namely, those which arise under the Taft-Hartley Act. In my opinion, there would be chaos in such cases if uniform standards were not applied throughout the country.

Mr. ALLOTT. Mr. President, at this point will the Senator from Utah yield to me?

Mr. WATKINS. I yield.

Mr. ALLOTT. I should like to avoid the use of the term "no man's land." In terms which an ordinary person can understand, it seems to me that the amendment simply means that under the provisions of the Taft-Hartley Act, if the National Labor Relations Board refuses to accept jurisdiction, then, in view of the law as it now stands, both management—employers—and employees are left without any recourse whatsoever.

Mr. WATKINS. That is correct.

Mr. ALLOTT. And it hurts the employee, or may hurt him, depending on the case.

Mr. WATKINS. It did in my State of Utah.

Mr. ALLOTT. The way the law now reads, it may also hurt the employer. In other words, if there is a dispute and it is submitted to the National Labor Relations Board, and the Board refuses to take jurisdiction, either side, employee or employer, may be left completely without any remedy anywhere.

Mr. WATKINS. That is exactly what happened in Utah.

Mr. ALLOTT. This situation is known as the "no man's land."

Mr. WATKINS. "No man's land," and it should be known as "no court land."

Mr. ALLOTT. "No court land," or "no redress land," because each party is left without a remedy.

Referring to the bill which is now before the Senate, and not the Senator's amendment, in the case of the present committee print, in an attempt to pin down these differences, the National Labor Relations Board is forbidden from setting up any standards governing whether it shall or shall not take jurisdiction. Is that correct?

Mr. WATKINS. That is correct. I think that policy is not sound, because I believe the Board ought to be permitted to set up some standards so persons in the field of management or labor would have some criterion on which to proceed.

Mr. ALLOTT. That is exactly correct. Otherwise, everybody would be subject to the law of the jungle, because no one would know where the remedy lies.

Mr. WATKINS. The parties would have to go to the National Labor Relations Board each time to ascertain whether the Board had jurisdiction or did not have jurisdiction.

Mr. ALLOTT. And there would be no standards for knowing whether the parties have any right to go before the National Labor Relations Board.

Mr. WATKINS. That is true. The parties would not know which law applied.

Mr. ALLOTT. Is it not a fact that the amendment of the Senator from Utah would not diminish in any way the right of any employer, employee, or any other interested party, to go to the National Labor Relations Board?

Mr. WATKINS. That is correct; they could go there. If the Board should not decline to take jurisdiction, the parties could pursue their remedy before that Board.

Mr. ALLOTT. But if the Board refuses to accept jurisdiction, then the State courts may accept jurisdiction of the matter and determine it?

Mr. WATKINS. The State labor relations board, or whatever machinery is set up in the State for that type of matter, could.

Mr. ALLOTT. Whatever agency the individual State has could do so.

A little while ago the Senator remarked about the situation which existed when he attempted heretofore to offer this proposal. I read now, from page 63 of the report, the statement the junior Senator from Massachusetts [Mr. KENNEDY] made to the Senator from Utah [Mr. WATKINS]:

> I agree with the Senator from Utah that equity should be done in areas where the National Labor Relations Board is without jurisdiction, and where a State attempts to take jurisdiction, particularly in the instance cited by the Senator from Utah. But I should like to give some directions to the National Labor Relations Board as to when they shall have jurisdiction. I do not think we should leave it to the Board to decide where it will take jurisdiction. I think there should be some standard prescribed by Congress.

While it is not completely in line with the statement of the Senator from Massachusetts, the amendment of the Senator from Utah would clear up this area by making it definite that an employee or employer who was refused access by the National Labor Relations Board could go to his own State administrative or judicial machinery to get his case decided.

Mr. WATKINS. I think the statement of the Senator is accurate. A party could go to the State courts, or to the State labor relations board, or whatever instrument or agency the States sets up to take care of matters of this kind. The committee's provision, as I understand it, is directly to the contrary.

Mr. ALLOTT. That is correct.

Mr. WATKINS. The provision leaves it wide open for the Board to decide in each individual case whether it will or will not take jurisdiction. It prohibits the Board from setting up standards.

Mr. ALLOTT. It does prohibit the Board from setting up standards so that an officer of a labor union or an employer would never know from day to day, when he appealed to the National Labor Relations Board, whether the Board would or would not accept jurisdiction, because the Board is prevented from setting up standards which provide that one is subject to the National Labor Relations Board.

Mr. WATKINS. That is true. To enable a small business organization or labor union to ascertain an answer to that question the cost would be almost prohibitive.

Mr. ALLOTT. I thank the Senator. I hope this provision will be of assistance in providing language which people who are not so familiar with legal language, as the Senator from Utah and I are, can understand.

Mr. WATKINS. We drew up the amendment so anybody could understand it. When the National Labor Relations Board declines jurisdiction, then State instrumentalities can proceed. It does not provide that State boards or courts can take jurisdiction if the Board is simply negligent or a little slow in getting to a case.

Mr. ALLOTT. I thank the Senator.

Mr. WATKINS. I appreciate the contribution of the Senator from Colorado, and also that of the Senator from Kentucky.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. WATKINS. I yield to the Senator from Minnesota.

Mr. HUMPHREY. I have been particularly interested in the discussion between the Senator from Utah and the Senator from Kentucky. While I have no expert knowledge in this matter, some 6 years ago I was privileged to be chairman of the Labor-Management Subcommittee. We made a study at that time of jurisdictional problems of the National Labor Relations Board, and also of problems which arose as a result of State courts and State agencies moving into the area of labor law which had been preempted, supposedly, by Federal action. I think the Barbash report, relating to the jurisdiction of the court, has been referred to. Another report was also made on the matter of injunctive-relief provisions of the Taft-Hartley law.

Here is my point, which, in a very informal, and I hope helpful, way I should like to discuss with the Senator from Utah. As I see it, the argument made by the Senator from Kentucky is that whenever there are turned over to State or local agencies responsibilities in the area of law which was supposed to have been covered by Federal statute and to have been, at least theoretically, determined by a Federal agency, and there is no uniformity of standards to guide the local or State administrative agency or court, there results a multiplicity of standards and decisions which are based on no similarity of standards. I think that is a valid argument.

As I view the bill before the Senate, section 602 contains language which would fill in the gap which now exists as a result of the National Labor Relations Board's own decisions as to its power and jurisdiction. Actually, a part of the problem today relating to the so-called "no man's land" or "no court land" or "no agency land" results from the fact that the National Labor Relations Board itself has limited its own jurisdiction.

Mr. WATKINS. There are two ways to look at jurisdiction. As a matter of law and as a matter of theory the NLRB does have jurisdiction to take over those cases.

Mr. HUMPHREY. The Senator is correct.

Mr. WATKINS. But the Board also has the power in the act itself, as I understand, to decline certain cases.

Mr. HUMPHREY. The Senator is correct. At least, it is implied that the Board has such power.

Mr. WATKINS. I think the courts have held the Board has that right. The Board also has a right to cede jurisdiction.

Mr. HUMPHREY. Under agreements.

Mr. WATKINS. Under agreements with the State labor boards. We have a State labor board in Utah.

Mr. HUMPHREY. Yes.

Mr. WATKINS. It seems to me there is a field in which the State people should operate. For instance, in the consideration of a case such as the Guss case, there were only one or two operations in the entire case which had to do with people outside the State, which made it an interstate case in character. Much of the activity of the Guss company was wholly within the State and involved an intrastate matter.

Mr. HUMPHREY. The Senator is correct.

Mr. WATKINS. I consider that in such a case it would be wise for the Federal Government not to move in. The State should have some right of activity. Such a matter should not be completely turned over to the Federal authorities. The State should be able to act in that kind of case, but the State cannot do so under the court decisions.

Mr. HUMPHREY. I know of cases which have occurred in my own State of Minnesota in which there has been a failure to find where the jurisdiction seemed to lie. I do not deny that such a thing can happen. The reason is that the National Labor Relations Board has refused to take jurisdiction when the law was clear as to its right to take jurisdiction.

Mr. WATKINS. The Board has a right not to take jurisdiction, under the law.

Mr. HUMPHREY. The Board may have a right not to do so, but it has an obligation under the Taft-Hartley law to enter into cooperative agreements with States in the cases where there are standards which meet Federal standards.

Section 602 of Senate bill 3974, introduced by the Senator from Massachusetts [Mr. KENNEDY], the Senator from New York [Mr. IVES], the Senator from Oregon [Mr. MORSE], the Senator from Alabama [Mr. HILL] and the Senator from Montana [Mr. MURRAY], as to the matter of the National Labor Relations Board jurisdiction, states:

SEC. 602. Section 6 of the National Labor Relations Act, as amended, is amended by inserting before the period at the end thereof of a colon and the following: *"Provided,* That the Board shall not adopt any rule, regulation, standard, rule of decision or policy which is intended or has the necessary tendency or effect of precluding the Board from taking appropriate action in cases involving recognition or certification of employees for purposes of collective bargaining (pursuant to section 9) or the commission of unfair labor practices (listed in section 8) affecting commerce, when such action is necessary to safeguard the rights of employers or the rights of employees to form or join unions, to bargain collectively through representatives of their own choosing or to engage in other concerted activities for their mutual aid or protection, or to refrain therefrom, as provided in section 7."

I believe the purpose of that language was to close up the loophole which the National Labor Relations Board itself designed.

Mr. WATKINS. In other words, what the Senator is saying, in effect, and what the language reported by the committee intends to say, is close the door to State activity in any of those fields. That would make it impossible for the National Labor Relations Board to set up standards which would permit the States to engage in activities in this field.

Mr. ALLOTT. Mr. President, will the Senator yield to me so that I may make a comment to the Senator from Minnesota?

Mr. HUMPHREY. I may say, respectfully, there is a concept of law that when the Federal Government steps in under the power of the Constitution and establishes law, the Federal Government can preempt the authority.

Mr. WATKINS. I understand.

Mr. HUMPHREY. That is the situation in the case of the Taft-Hartley Act. We are not denying the State something, because the State never had the authority. This is an interstate proposition and relates to the powers set forth in the Taft-Hartley Act. All that has happened is that the National Labor Relations Board in several instances has said, "We refuse to take jurisdiction." The Board did not say it did not have jurisdiction or did not have the power of jurisdiction; it simply refused to take jurisdiction.

I think if there is any doubt as to the exercising of rightful jurisdiction by the National Labor Relations Board we ought to see that the matter is clarified. I understand the Senator from New York has drafted a provision which would remove any doubt whatsoever as to the authority of the National Labor Relations Board, as well as its responsibility.

I will conclude by stating that if we are to include State courts or agencies, then the point which has been made by the Senator from Kentucky would be absolutely controlling. We cannot have any kind of pattern of harmonious and successful labor-management relationships if we have one set of standards in the State of Wisconsin, another set of standards in the State of Michigan, and another set of standards in the State of Minnesota, when we have cases which are supposedly within the jurisdiction of the Taft-Hartley law and the National Labor Relations Board.

The cases involving strictly intrastate matters, which are completely local and intrastate, are not covered by the Taft-Hartley Act, and of course are a matter of local jurisdiction and local authority.

What we are discussing today, so as to preclude any misrepresentation of the facts, is the case wherein the law now provides the authority for the Federal Government and for a Federal agency, but a case wherein the Federal agency

does not exert its authority. Under the amendment of the Senator from Utah, a State would be able to take over the responsibility, but there would be no uniformity of standards. I think we would have chaos.

Mr. WATKINS. I do not think the amendment would mean that at all.

Mr. HUMPHREY. What does the amendment mean?

Mr. WATKINS. It means the State can take the case over when the NLRB declines to act.

Mr. HUMPHREY. When the National Labor Relations Board declines to act.

Mr. WATKINS. The Senator is correct. The language put in the bill by the committee would not make provision for each individual case. The Board is simply told it cannot set up any standards.

Mr. HUMPHREY. If there is any doubt as to the duty of the National Labor Relations Board to act in these cases, that matter can be clarified by precise language. I understand the Senator from New York intends to do exactly that.

Mr. WATKINS. As a matter of law, I wish to discuss the situation the Senator has raised in his argument, with reference to the standards, the State courts or the State boards would have to use, in connection with infractions of the Taft-Hartley Act——

Mr. DIRKSEN. Mr. President, will the Senator yield?

Mr. WATKINS. I will yield in a moment, if the Senator will let me finish this point.

The point is that ordinarily, if the Federal Government is enforcing a State law—which it sometimes does, since the Supreme Court passes upon State cases and enforces State law—unless the law is unconstitutional the decision will follow the State law. The State courts or the State boards, as to violatons of the Taft-Hartley law, would necessarily have to use the same standards and follow the decisions with respect to the Taft-Hartley law.

Mr. HUMPHREY. Of course, the Senator does not say that in his amendment.

Mr. WATKINS. We cannot spell it all out.

Mr. HUMPHREY. I think we had better do so.

Mr. WATKINS. The amendment does say that, in effect.

Mr. HUMPHREY. I understand why the Senator from Kentucky made his point. If we are going to cede jurisdiction in a matter of Federal law to a State agency, then in the process of ceding jurisdiction, as we write it into a statute, we should lay down the mandate that the Federal standards will be used.

Mr. WATKINS. We have numerous laws on the books, and we would have the books so filled with language we would never get anywhere if we had to write in all of the decisions made by the courts. It is ordinarily understood that when one is construing a Federal law and applying it in any way, one must follow the decisions of the Federal courts. When applying State law, one must use the decisions of the State courts, insofar as applicable. There would be a difference only when the State decisions were held to be unconstitutional.

Mr. DIRKSEN. Mr. President, will the Senator yield?

Mr. WATKINS. I yield to the Senator from Illinois for a moment, and then I shall yield again to the Senator from Minnesota.

Mr. HUMPHREY. The Senator has been very considerate.

Mr. DIRKSEN. I am afraid we will get so bogged down concerning standards and rules that the poor devil who is the victim of this situation will founder before he gets relief.

The whole situation is quite simplified, as I read the Guss case, the decisions, and the Watkins amendment.

The National Labor Relations Board says, "We decline to take jurisdiction." The Board says, "We will not." The court has said in that case, so far as Utah is concerned, "You cannot."

We are considering the poor devil who is caught in between. The Federal Government says, "We will not take jurisdiction." The State government says, "Under the ruling, we cannot take jurisdiction."

What are we going to do about that situation? Are we going to quibble about rules, decisions, and standards?

Has the Senator from Minnesota read the language of the amendment?

Mr. HUMPHREY. Yes. I read the language very carefully. I might remark, for the benefit of the Senator from Illinois, one does not run from one hot pan to another. The Senator says, "If you are getting no relief here, move over into this land of chaos and confusion, with 48 separate standards around the country as to labor cases."

Mr. DIRKSEN. Let me continue for a moment, if my friend will permit me.

Mr. WATKINS. One at a time. Let us get some logic and sense into the debate.

Mr. DIRKSEN. The language of the bill is as follows:

Provided, That the Board shall not adopt any rule, regulation, standard, rule of decision or policy which is intended or has the necessary tendency or effect of precluding the Board from taking appropriate action.

What is appropriate action? The Board may still say, We decline to take jurisdiction, either because commerce is not burdened, because there is not enough money involved, or enough business involved. Then the poor devil is trussed up high and dry on the pikestaff.

I should like to make one further point. The committee says there will be a great deal of difficulty because only 12 States will have adequate State laws. So what? There is no uniformity in State laws on many subjects, so there will be differences in many cases. I see a great lawyer, the Senator from South Carolina [Mr. THURMOND] shaking his head. He is quite right. So we are not departing from the situation which exists in many fields. There are no uniform laws with respect to highways, weights and standards, and many other things. The fact that 12 States are in one category and 36 in another makes no difference, for the very good reason that if the Board refuses to take jurisdiction, the legislatures of the 36 States are still free to act, and make it possible to get these people out of their difficulty.

This is an emergent situation. It has been before us for a long time. It was recognized in the bill of 1954. It is recognized by the administration. Unless we do something adequate, there will be cases in which people will be in difficulty. There will be no forum in which they can obtain even a hearing of their problems. That is why I regard this problem as one of the most important before the Congress today.

Mr. WATKINS. It seems to me that what the committee did was a very adroit way of saying to the States. In this field you cannot legislate. Keep out. That would apply to any number of laws which have been enacted by the States.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. WATKINS. I yield.

Mr. HUMPHREY. Let me say to the Senator from Illinois that his argument that the other 36 States could legislate is a truism. I do not doubt that the other 36 State legislatures could meet and set up whatever standards might be required; but, by the same token, the Congress of the United States could meet once. It would not have to have 36 meetings. We shall be able to remedy the situation with the amendments which will be offered.

Mr. DIRKSEN. Mr. President, will the Senator yield?

Mr. WATKINS. I yield.

Mr. DIRKSEN. The simplest answer to the Senator from Minnesota is this: In the unemployment compensation bill we provided that the States should move in. We were not so squeamish or thin-skinned about involving the unemployed, to the extent of hundreds of millions of dollars. Why not do the same thing here? Not a session of Congress goes by that we do not say, This act will be come effective only upon further action by legislatures at the State level. That is such a common practice that it requires no discussion or argument on my part.

Mr. WATKINS. Mr. President, I should like to enter into the debate for a moment since I have the floor. I enjoy discussions with my colleagues. I point out that there are situations in which there is no clear line of demarcation. As I remember the facts in the Guss case, it involved both interstate and intrastate transactions. Which law is the National Labor Relations Board to enforce in cases in which both are involved? Is it to enforce the State laws of Utah, for example, in cases involving intrastate affairs, and the Taft-Hartley Act when interstate matters are concerned? That is something to think about.

I do not believe that we have reached the point where we should turn over to the National Labor Relations Board 100 percent of the adjudication of disputes arising all over the United States, whether they involve interstate or intrastate subjects. There are certain fields

in which the decision is very close as to whether they involve interstate or intrastate. The Taft-Hartley Act wisely provided that the Board could cede jurisdiction.

It is said that we would have to make larger appropriations to provide more clerks in the National Labor Relations Board to take care of the situation. What the Board should do is to take over to the extent of 100 percent in all cases involving Federal questions. I do not see how anyone who is an advocate of States' rights could be opposed to this amendment and in support of the committee provision.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. WATKINS. I yield.

Mr. THURMOND. I should like to have the Senator from Minnesota listen to what I am about to say because of his particular interest. I wish to read one paragraph from the interim report of the Select Committee on Improper Activities in the Labor or Management Field, headed by Senator McCLELLAN.

The report was issued on March 24, 1958. I read from page 452 a paragraph which shows the distinct need for the amendment of the Senator from Utah. It deals with an entire no man's land.

> Testimony before the committee revealed that some employers have had no access to either the National Labor Relations Board or any comparable State agency. In many instances it was found that the fact that the National Labor Relations Board does not take jurisdiction in certain cases, does not automatically turn over the case to a State board. In the committee's inquiry into activities in the New York area it was shown that exploitation of workers and circumvention of legitimate labor organizations were made possible because employers had no recourse to any governmental agency. To solve the no man's land problem, therefore, it is recommended that the NLRB should exercise its jurisdiction to the greatest extent practicable, and, further, that any State or Territory should be authorized to assume and assert jurisdiction over labor disputes over which the Board declines jurisdiction.

As I understand the amendment of the Senator from Utah, from a reading of it, that is exactly what the amendment would do.

Mr. WATKINS. We purposely drafted it in language anyone can understand—union leaders, State authorities, Federal authorities, as well as Members of the Senate.

Mr. THURMOND. It is very simple. It implements the very recommendation which was made by the McClellan committee.

Mr. WATKINS. It is designed for that very purpose; and we thought it would meet with unanimous approval.

Mr. THURMOND. The amendment reads as follows:

> (c) Nothing in this act shall be deemed to prevent or bar any agency, or the courts, of any State or Territory from assuming and asserting jurisdiction over labor disputes over which the Board by rule or otherwise has declined to assert jurisdiction.

In other words, if the Board asserts jurisdiction, the National Labor Relations Board has control of the situation, and the State agencies do not come into play. But if the NLRB does not assert jurisdiction, under the provisions of the pending amendment the appropriate State agency would. That would fill the gap which now exists in a no man's land, where jurisdiction does not seem to reside in either a State or Federal agency, when the National Labor Relations Board declines to take jurisdiction.

Mr. WATKINS. That is what the amendment is designed to do. I thank the Senator.

Mr. COOPER. Mr. President, will the Senator yield?

Mr. WATKINS. I yield.

Mr. COOPER. I wished to address my remarks to the Senator from Illinois [Mr. DIRKSEN], but he has left the Chamber. He probably did not hear the first statement I made on this question. As I stated, there is a practical situation in which persons, individuals, or unions are denied access to the courts.

I do not believe that is a good situation. I hope it can be remedied. What I tried to point out was that there are some problems involved in the amendment which is being offered which ought to be considered. I say respectfully that my friend from Illinois glossed over those items. This is a situation on which the Supreme Court has passed. I do not know what my friend from South Carolina would say about it. However, the Supreme Court has held, first, that the Taft-Hartley Act gave complete jurisdiction to the Federal Government in all labor dispute cases arising under the Taft-Hartley Act affecting interstate commerce.

Mr. HUMPHREY. That is all we are talking about.

Mr. COOPER. That is all we are talking about. The courts have further held that in the interpretation of these cases, there must be uniformity. Even under the section of the Taft-Hartley law which authorizes the Federal Government to cede some of these cases to State agencies, the State agencies must follow Federal standards.

The point I make is—and I repeat it—the Taft-Hartley Act does call for uniformity.

I do not see how we can have cases decided one way in one State and decided another way in another State, particularly in connection with an industry which does business in interstate commerce.

Let us suppose that an industry does business in the State of the Senator from Utah and in my State, and in every State between Kentucky and Utah, and each State court decided differently. I do not believe that would be a desirable situation. What I am saying is that if the amendment is to be adopted it ought to provide that in cases which affect interstate commerce—and that is all we are talking about—the courts or agencies of the State shall be bound by the rulings and decisions of what the NLRB and the Supreme Court under the Taft-Hartley Act have held. The language ought to be drawn to cover that situation. I am now merely giving my view.

Mr. WATKINS. The Senator is a lawyer and a former judge. It is a principle which has been accepted by the courts throughout the United States for many years that when a Federal law is being construed, either by State courts or by Federal courts, the courts follow the rules and standards of the Federal decisions interpreting that law. Is that not correct?

Mr. COOPER. I do not agree wholly with the Senator. The Federal courts must follow State law in some cases.

Mr. WATKINS. Where the case concerns intrastate matters; yes.

Mr. COOPER. If the Senator will study the case of Guss against The Utah Labor Board, he will find that the question of uniformity was raised in that case. The record shows that the National Labor Relations Board filed a brief, and even the Board could not agree as to whether State standards would be followed or whether Federal standards would be followed.

Mr. WATKINS. The Senator, I assume, understands why that was true in that case. It was because it involved both Federal and State law.

Mr. COOPER. No; they were dealing simply with the cases which affected interstate commerce. This amendment is not clear. A reading of the Supreme Court's decision so indicates. The question of standards will be left hanging in the air.

Mr. ALLOTT. Mr. President, will the Senator yield?

Mr. COOPER. It is not a simple matter to dash off the way my friend from Illinois dashed off. The question of uniformity of decisions affects unions and individuals throughout the land.

Mr. ALLOTT. Mr. President, will the Senator yield?

Mr. WATKINS. I yield.

Mr. ALLOTT. I should like to address my remarks primarily to the Senator from Kentucky [Mr. COOPER] and the Senator from Minnesota [Mr. HUMPHREY], who commented on this subject. I believe that a great portion of what they have said must be taken under careful consideration. I should like to point out that in 1954 the President said:

> Where the National Labor Relations Board has refused to assert jurisdiction on the ground that it would not effectuate the policies of the act for it to do so, it should be made clear by legislation that the States are free to act.
>
> Since I understand that your committee will report shortly on various amendments to the Taft-Hartley Act, I thought that you would like to have this progress report.

First of all, knowing the Senator from Utah as I do, and knowing how meticulous he is, probably more than any other Senator——

Mr. WATKINS. Well——

Mr. ALLOTT. I am happy to pay this tribute to the Senator. He is one of the most meticulous and studious men in the Senate, and he has given a great deal of study to this subject. I am sure he has given consideration to it, and feels that the reply he has given to the Senator from Kentucky is true and that the State courts will adequately assume jurisdiction and interpret in a correct way the matters and items that come before them and I, too, feel that they will.

However, this leads up to the real point in issue. The Senator from Kentucky

has raised this question, and Senators may put as little emphasis on it as they wish. Even considering it in its direct implications, I do not believe the State courts are irresponsible. But even assuming that they are, that does not pose a problem which will compare in the slightest degree with that which will be faced by us if the bill is passed as it is. In the bill we leave a complete jungle.

Let us be specific. Corporation A can appeal to the National Labor Relations Board and have the National Labor Relations Board assume jurisdiction of its case this week. Corporation B can come to the National Labor Relations Board next week on a case which is on all fours with the case of Corporation A this week, and be denied jurisdiction. That is so because the bill does not prescribe any regulations. What is the result? I see sitting around me on the floor of the Senate many able and capable lawyers who have had much more experience and many more years at the bar than I have had. What is the result? The result is that which is most feared by a lawyer when talking with his client and trying to advise his client—and labor unions and employers are going to lawyers for advice. When they go to them for advice, their lawyer will have to tell them, There are no regulations or standards. The NLRB is forbidden to prescribe standards. Even though last week Corporation A got before the NLRB, I cannot assure you that this week you will get to the NLRB, even though your case is on all fours with the other case.

This is one of the greatest hazards we could possibly face in this area, because we will remove even what certainty there is now. We will have a confusing jungle.

Mr. CASE of New Jersey. Mr. President, will the Senator yield?

Mr. WATKINS. I yield.

Mr. CASE of New Jersey. I believe that all of us share at some time the concern to make the act definite and to let everyone know—even lawyers, so that they can advise their clients for a fee—what the rights of the people are, and what remedies exist. I wish to be certain that no action of mine will make things worse or less certain. However, I believe that there is involved not only the question of what statutes shall apply—and of course in cases affecting interstate commerce, I am sure all of us agree that the Taft-Hartley Act provisions are binding and apply no matter which court enforces them—but there is also——

Mr. WATKINS. We have accepted that as a matter of law.

Mr. CASE of New Jersey. Yes. In addition to that, we have the question of the machinery which is provided for the enforcement and the implementation of these procedures. It was the action of Congress which created the National Labor Relations Board, and its branches throughout the country, and the Office of the General Counsel, which, in a way, made it unnecessary to go to court; and there were prescribed the standards and rights and obligations under which the act should be enforced.

I think that is the reason, although I was not here during its development, why the act itself requires that the cession of jurisdiction be made in certain cases by agreements with State agencies. It is in order to preserve not only the standards and rules of law, but also to preserve effective and adequate comparable governmental machinery. I do not think we should lightly take action here which would abolish that principle. I would be inclined at the moment to support a resolution on this issue, along the lines which I understand the Senator from New York [Mr. IVES] is now considering, to make it clearer that the Board must take jurisdiction in all cases affecting commerce, unless, as I understand, the Board is able to make agreements with State agencies which will provide comparable relief in all respects, both to employers and employees.

Mr. IVES. Mr. President, will the Senator from Utah yield, so that I may make a point clear?

Mr. WATKINS. I wanted to make a statement at this point.

Mr. IVES. I will have more to say about this in my own right.

Mr. WATKINS. If the Senator wishes to comment on what was said by the Senator from New Jersey, I yield.

Mr. IVES. No; I will take the floor in my own right later.

Mr. WATKINS. I shall be glad to yield to enable the Senator to make his comment.

Mr. IVES. No; it will take some time to make my comments.

Mr. CASE of New Jersey. Mr. President, will the Senator yield?

Mr. WATKINS. First let me make a statement, before I yield to the Senator from New Jersey.

The amount involved in the Guss case, State-wise, was about $152,025. From sources outside the State, Stainless Steel involved a little less than $50,000. Finished products were shipped to the Air Force at Wright-Patterson Field, Dayton, Ohio, and other Air Force bases, both inside and outside the State. All the other activities of the Guss business were in the State.

I can understand very readily why, as a matter of policy, the Federal Board should not, probably, step into cases of that kind. They should have ceded jurisdiction to the State, but they did not. A case of that kind involved a great deal more of Utah law than of Federal law.

Mr. CASE of New Jersey. Mr. President, will the Senator yield?

Mr. WATKINS. I yield.

Mr. CASE of New Jersey. This raises the point quite sharply and properly. I do not think that a very slight amount of business done in interstate commerce should result in depriving the employees or the employers in a given business of Federal standards and Federal machinery, or machinery comparable to it. I really feel very strongly about that. I suspect that the people who are interested in the matter are not so much the people of States like Utah, which has, as I understand, very good labor-relations machinery, or New York, or my own State, which have laws of their own; but, rather, it is the desire of people in many other places where the protection for both management and labor in such matters is not adequate to maintain what supposed advantage exists. For that reason, really, I have no sympathy with the argument that simply because a slight amount of business is in interstate commerce the State should apply its law which is different from the Federal law, or employ its machinery which is not adequate or equivalent to the machinery provided by the Labor-Management Act.

Mr. WATKINS. In this case the State did not try to grab the case. The State came into the situation only when the National Labor Relations Board failed to do anything. The Board actually declined to take action.

Mr. CASE of New Jersey. I do not think they should have.

Mr. WATKINS. Under the circumstances, I think we must be reasonable. I am not ready to turn over every operation in the State to the Federal Government, even if it involves a $5,000 as against a $1-million operation. I think that is getting to the point of being ridiculous. If that is what Congress wants to do, I register my emphatic opposition to such a policy.

Mr. CASE of South Dakota. Mr. President, will the Senator yield?

Mr. WATKINS. I yield.

Mr. CASE of South Dakota. I am inclined to support the amendment of the Senator from Utah for two reasons: First, it seems to me that the reason which the Chairman of the NLRB gave for the declining to take jurisdiction of a number of cases was the reduction in the force allotted to the Board. At page 810 of the hearings is a table submitted by the NLRB, giving the average employment and appropriations for the past 10 years.

In 1949, the NLRB had 1,698 employees. That was within 2 of 1,700.

For 1959, under the Budget estimate, the Board will have only 1,182 employees. If Senators will consult the table, they will note that there has been an almost constant decline in the number of employees for the past 10 years. The decline from 1,698 to 1,182 is a drop of more than 500 employees, or a drop of one-third. In other words, the NLRB has now only two-thirds the personnel it had 10 years ago.

Judge Leedom, in response to interrogations made of him at the time, pointed out that the fewer number of employees, the reduction in personnel by one-third made it incumbent upon the Board to draw some lines as to the cases which the Board would hear, or as to which they would accept jurisdiction.

So, first, if Congress is insistent upon reducing the appropriations for NLRB, which has resulted in a drop of one-third in the personnel over a period of 10 years, it must recognize that the Board almost has to have some guidelines as to the cases of which it will accept jurisdiction.

Consequently, I hesitate to approve the language which is provided in the bill, to the effect that the Board may not adopt any rule which is intended or has the necessary effect of precluding the Board from taking the necessary action in cases. In other words, if such language as that is adopted, how will the

Board be able to determine which cases it will hear, if its personnel has been reduced by one-third in 10 years?

The second reason why I am inclined to support the amendment offered by the Senator from Utah is that even the language of the bill, it seems to me, begs the question, because after prescribing that the Board shall not adopt any rule, and so forth, it reads: When such action is necessary to safeguard the rights of the employees and the rights of the employers.

Who is to determine when such action is necessary? When we say that the Board may not do so when such action is necessary, who is to determine when such action is necessary, other than the Board itself, unless a litigant goes to court and persuades the court to determine whether action is necessary?

It seems to me that the language of the bill would be unfortunate, even if it did what it apparently intends to do. That is my second reason for preferring the language suggested by the Senator from Utah. It would eliminate some of the "no man's land" and would make it possible for the employers or the employees to seek relief before a State agency, if such an agency existed.

Mr. WATKINS. Would not the Senator from South Dakota agree with me that if the Board accepted cases involving amounts as small as $5,000 or $50,000, it would be so loaded down with proceedings of this type all over the land that it would be unable to function, even if it doubled its forces? It is now in a field where the sums are so small, and where the State interests are so much greater.

Mr. CASE of South Dakota. I do not have the information which would enable me to pass upon where the dividing line should be. I think perhaps the line should be drawn so that the Board itself would have some authority. I think the Board should not be stripped of authority to fix the dividing line if the personnel is inadequate to handle the total amount of work.

Mr. WATKINS. My philosophy dictates to me that in small matters, at least, the States should have the right and power to take jurisdiction. They should cooperate. Then we can have the law enforced, and stop denying to the people their rights in the courts.

Mr. CASE of South Dakota. In other words, they will not be forbidden by this act. It will be provided that nothing in the act shall preclude State agencies from acting when the National Labor Relations Board has declined to act.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. WATKINS. I yield.

Mr. THURMOND. Was it not the intent of Congress, when the Taft-Hartley law was passed, to convey certain powers to the Federal Government, but not to preempt the entire field for the Federal Government?

Mr. WATKINS. I think that was clear.

Mr. THURMOND. But the Supreme Court later held that the Taft-Hartley Act did preempt the field. Since then, decisions have been handed down to the effect that the Federal Government has the entire judisdiction. Yet the Federal agency which is administering the Taft-Hartley Act exercises jurisdiction only in certain areas, and leaves blank any action in other areas. It stands to reason that the States, under the Supreme Court decisions, do not have the power to step in and take action.

Mr. WATKINS. Let me call attention to the fact that in the Guss case the Supreme Court invited the Congress to step in and give the States jurisdiction.

Mr. THURMOND. Is not an amendment to the act essential, in order to give the States authority to step into this no man's land and act when the agency empowered by the Federal Government to administer the act fails to do so?

Mr. WATKINS. Yes, when it declines to act.

Mr. GOLDWATER. Mr. President, will the Senator from Utah yield to me?

Mr. WATKINS. I yield.

Mr. GOLDWATER. I appreciate the courtesy of the Senator from Utah in yielding to me. I hold in my hand a compilation of State laws which apply in this field, and I believe the compilation is of value in connection with this point.

During the hearings, when I, as a layman, raised the question of the no-man's land, I was confronted with the argument which we have heard here today; namely, that only 12 States have laws of this kind. From that statement one might gather that the other 36 States have never enacted any laws in the labor field.

I should like to say—if I may have the indulgence of the Senator from Utah—that the following States, for example, have on their books laws in the field of arbitration: Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois Indiana, Iowa, Kansas, Kentucky, Maine, Massachusetts, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, West Virginia, Wisconsin, and Wyoming.

I may say that every State in the Union and, so far as I can ascertain, also all the Territories have, not only one law, but several laws in this field; and some States have voluminous laws on the subject of labor.

I wonder whether the Senator from Utah would be willing to have the list which I hold in my hand, which is entitled "Cumulative List of Major Laws and Regulations," and comes from the Commercial Clearing House, printed at this point in the RECORD.

Mr. WATKINS. I shall be glad to have that done. Mr. President, I ask unanimous consent for that purpose.

The PRESIDING OFFICER. Is there objection?

There being no objection, the list was ordered to be printed in the RECORD, as follows:

CUMULATIVE LIST OF MAJOR LAWS AND REGULATIONS

(EDITOR'S NOTE.—Following is a State-by-State list of the major labor-management relations and employment regulation statutes and regulations appearing in this binder. The laws are arranged alphabetically by State or Territory, and in each case the page on which the text begins is set out opposite the title of the law. For page references to other laws, see the tables of contents appearing at the beginning of each State or territorial unit.)

WYOMING

Anti-Injunction Act	61:241
Arbitration Act	61:221

Mr. GOLDWATER. Mr. President, during the hearings, it was argued that only 12 States handle this problem.

Let me say that I have perfect confidence in the ability of the State courts to handle these matters; and from experience in Arizona, I can say—and my colleague, the Senator from Utah, knows that Arizona, which is a neighbor of his State of Utah, is a large State, although it has a small population—that in my State there are many small businesses, and I know that many businesses have been drastically hurt by their inability to obtain action of this sort.

So I am not impressed by the provision of the Kennedy bill which would turn over this matter to the Federal Government, because we have had from the National Labor Relations Board testimony that it cannot handle any more cases.

As to the point that additional funds will be required in order to enable the Board to handle more cases, the question is merely whether the additional funds to be provided should be $1 million or $2 million or $3 million, for instance. I venture the assertion that in the next few years many American people and many American firms will suffer because of a lack of proper attention to this field.

Mr. WATKINS. In fact, only recently a delegation of businessmen from Illinois—a large State, populationwise—called on me and said they were in desperate straits because of their failure to obtain action by an agency with jurisdiction in this field. In other words, by reason of the failure of the National Labor Relations Board to act, they were unable to obtain relief; and they hoped that some agency would have jurisdiction.

I believe that should be done. I believe that in small matters, usually intrastate matters, jurisdiction should be vested in the State courts, which are closer to the areas involved; and we have found it much more satisfactory and much better to have such matters handled at the grassroots, rather than from the top.

Mr. GOLDWATER. In the McClellan committee, the evidence adduced during 1 year induced us to propose legislation which would cover this specific field. Although I cannot speak for the distinguished chairman of the committee, I believe that the evidence adduced there shows that the States, not the Federal Government, should have this power.

Mr. KENNEDY. Mr. President, will the Senator from Utah yield to me?

Mr. WATKINS. I yield.

Mr. KENNEDY. It seems to me that when the Senator from Colorado [Mr. ALLOTT] talked about the situation of A and B, and said that at the present time the case of A is subject to such jurisdiction, but the case of B is not——

Mr. ALLOTT. No, Mr. President; I did not say that.

Mr. KENNEDY. Did the Senator from Colorado not say that such cases would be under the jurisdiction and standards of the court?

Mr. ALLOTT. No; that was not the illustration I used.

I said that under the pending bill, the case of A might receive consideration, whereas if next week a case involving B arose, it might not receive consideration.

Mr. KENNEDY. Mr. President, I believe that is an important point, and I wish to answer it.

It seems to me that John Morley has said that politics is a field where action is one long second best, and where the choice constantly lies between two blunders.

It seems to me that the solution proposed by means of the bill is not a particularly happy one, because it can still be shot full of holes.

But let us consider the solution the Senator from Utah is suggesting. In 39 States, where there is no State act which bears any relationship to the Taft-Hartley Act, what kind of treatment would A or B or C get?

Mr. WATKINS. I have answered that point.

Mr. KENNEDY. Will the Senator from Utah answer it again, please? I am not sure what his answer was.

Mr. WATKINS. Yes. In the State courts, and I have some knowledge of them, because I was once a presiding judge in a State court—the courts follow the practice of interpreting Federal laws according to the decisions of the Federal courts; that is the universal rule.

Mr. KENNEDY. I would have no objection to having the State courts have jurisdiction in cases in which the National Labor Relations Board ceded jurisdiction, if the State courts would apply the provisions of the National Labor Relations Act. But that is not the case. For instance, in New York, the State courts would subject the employers and the employees to the closed shop, which is not a policy of the National Labor Relations Act.

Mr. WATKINS. But in this case we are referring strictly to Federal matters. The Senator from Kentucky [Mr. COOPER] has pointed out that these matters affect interstate commerce, and thus require a Federal act. In such cases, of course, the Federal act or Federal law must be followed.

Mr. KENNEDY. But we are discussing the jurisdiction of the National Labor Relations Board. No one has challenged the jurisdiction of the National Labor Relations Board over these matters. Instead, we are speaking of the failure of the Board to assert its jurisdiction over Federal areas. So this question is not one of States rights.

Mr. WATKINS. It is in part.

Mr. KENNEDY. How?

Mr. WATKINS. Because, although one of the firms to which reference has been made does much of its business outside the State in which it is located, on the other hand, much of its business is intrastate.

Mr. KENNEDY. Then do I correctly understand that the Senator from Utah wants to rewrite the Taft-Hartley Act?

Mr. WATKINS. No.

Mr. KENNEDY. The Supreme Court has held that the National Labor Relations Board has the right to assume jurisdiction. However, the Board does not do so in many of these cases because it holds that a certain number of them do not affect interstate commerce sufficiently to warrant jurisdiction by the Board.

I believe a much sounder way to proceed is to require the National Labor Relations Board to meet its responsibilities. That is what we are attempting to do by means of this measure, rather than to have the Board turn over its responsibility to the 48 States, all of which have different laws; and 39 of them do not even have laws comparable to the National Labor Relations Act.

Mr. WATKINS. Actually, the Senator from Massachusetts would give the Board an impossible job.

Mr. KENNEDY. No; the Senator from Utah would, by means of his amendment, give them an impossible job, because the State laws do not provide sufficient machinery.

Mr. WATKINS. No, Mr. President, the State laws can help in these cases.

Mr. KENNEDY. In how many States?

Mr. WATKINS. Probably all of them have some sort of labor laws. The Senator from Massachusetts heard the Senator from Arizona [Mr. GOLDWATER] say that all the States have such laws.

Mr. KENNEDY. I do not regard the Senator from Arizona as the final authority on this matter. It is my information that only 12 States have acts dealing with collective bargaining, unfair labor practices, and such matters.

Several Senators addressed the Chair.

Mr. WATKINS. I must yield in the order in which Senators asked me to yield. Let me yield first to the Senator from Colorado.

Mr. ALLOTT. The Senator from Minnesota really asked the Senator to yield before I did, but the statement I desire to make applies now. The most interesting thing about the discussion of the Senator from Massachusetts is this: The National Labor Relations Board refused to take jurisdiction in the Guss case for a very peculiar reason. If there is any reason for denying jurisdiction of State courts where the Board refuses to take jurisdiction, after one reads the reasons for the Board's refusing to take jurisdiction, I would like to know what that reason is. I read from page 5, volume 353 of the United States Reports, 1956:

> The Board's Acting Regional Director declined to issue a complaint. He wrote on July 21:
>
> "Further proceedings are not warranted, inasmuch as the operations of the company involved are predominantly local in character, and it does not appear that it would effectuate the policies of the act to exercise jurisdiction."

This in spite of the fact that the company was engaged in interstate commerce. The National Labor Relations Board had held an election. There was no question that the company was engaged in interstate commerce. Yet the reason given for refusal to take jurisdiction was that the operations of the company involved were predominantly local in character.

If the Board can refuse to accept jurisdiction on such grounds as that, then there is certainly nothing wrong in

handing over to State courts jurisdiction in such cases.

Mr. WATKINS. I may add that there is nothing in the committee amendment which will take care of that situation. It is still left to the decision of the National Labor Relations Board in each case. The Board can set up any standards it wishes, but it must make a decision in each individual case.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. WATKINS. I yield.

Mr. HUMPHREY. First I wish to thank the Senator from Utah for his customary patience in these matters. This has been a helpful and informative discussion, but there are a few points which need to be pinned down beyond a shadow of a doubt.

The Senator from Massachusetts said, in concise language, and perhaps it needs reiteration, that we are talking about nothing else except a case in which there is Federal law and in which a Federal agency has jurisdiction, according to Supreme Court decision. We are not talking about law or rights or privileges or duties that lie within the area of a State. This is determined by law and by court.

The next point I wish to make is that we are talking about the present operations of the National Labor Relations Board. I am perfectly willing to concede it is not doing a very good job. But it could do a good job. The law permits it to do a good job. The Board is authorized by the Taft-Hartley Act to take jurisdiction in the cases for which the law has been written. What we are saying is that the National Labor Relations Board under the present administration and under present operations is not doing well. I agree. It ought to do much better. But we should not compound one mistake by adding another.

What has been preposed here is quite interesting. The Senator from South Dakota [Mr. CASE] reminds us that one reason why the National Labor Relations Board is not doing too well is that Congress cut off one-third of the Board's personnel by monetary limitation. This undoubtedly has compelled the General Counsel to issue rules to limit jurisdiction and refuse to take certain jurisdiction.

Now there is offered an amendment by the Senator from Utah which provides that whenever the Board does not take jurisdiction, it can put all these cases, which should be under Federal law and in Federal courts and in Federal agencies, into the 48 States, each and every one of which has separate standards.

Mr. WATKINS. Just a moment. That is not what the amendment means. It says when the Board declines.

Mr. HUMPHREY. I am coming to that point. All that has to be done to really cut off more jurisdiction of the National Labor Relations Board is to cut more appropriations next year, so more cases will go back to the States—cases over which Federal law is supposed to be controlling. Forty-eight States and their agencies will take those cases over. The year after that more appropriations could be cut, and the Board would be unable to take jurisdiction to an even greater extent, because it would not have the manpower. Therefore, additional cases could be sent to the State agencies.

I ask the Senator not to misunderstand me. There undoubtedly are many States that can handle these cases. I am not arguing what I am sure is the real desire of the Senator from Utah; namely, that when there is a legitimate case which cannot be handled at the Federal level, it should be handled at the State level.

We have compounded the error by saying the jurisdiction of the National Labor Relations Board is needed. We have asked the National Labor Relations Board to enforce the Taft-Hartley law. We say we want the Board to point out the cases of which it will not take jurisdiction and cede jurisdiction over them to the States, which are not prepared to handle them. It is like examining a sick patient and discovering that he has a very serious disease, but because appropriations for the hospital have been reduced and the patient cannot be taken care of, he is asked to stand outside in the wind and the cold and the rain and told to take 10 deep breaths and, somehow or other, he will get relief.

I believe the Kennedy bill tries to meet the situation honestly and correctly. That was taken care of in the report and in the statutory language. The report reads, "under section 602":

> This amends the rulemaking authority of the NLRB so as to prevent the Board from declining to exercise its full jurisdiction, and thereby rendering employees, unions, and employers subject to the act remediless.

In other words, the purpose of the language in the Kennedy bill is to give the Board a mandate to utilize and exercise its jurisdiction and to deny the Board any excuse, by rule or regulation, for limiting or denying its jurisdiction. Then the committee recommends adequate funds to get the job done.

I heard the Senator from Arizona [Mr. GOLDWATER] say the States have some labor laws. He cited laws of arbitration. That does not answer the problem. There may be laws dealing with representation, unfair labor practices, and cases in which injunctive remedies may apply. It cannot be stated that merely because a State has some labor laws it is capable of meeting problems which are within the jurisdiction of Federal law. That is what we are talking about. We are talking about cases to which Federal law applies theoretically, and to which the jurisdiction of the NLRB applies theoretically, but does not apply realistically. It is said that the remedy in such cases should be placed in the hands of the States.

Unless there are uniform standards for all cases, unless there are State agencies which are equipped with a mandatory background, experience, and uniformity of standards to handle cases, as the Senator from Colorado has stated, in one case Company A will get one ruling in Michigan, Company B will get another ruling in Wisconsin, Company C will get a third ruling in Minnesota. We in Minnesota do not happen to have an agency that handles such laws. Is this fair to a company? There will be instances where companies will appeal, under this kind of amendment, to an agency in a State which has no statutory law, so that the case will come under the common law. The common law protects the employer and the property right but gives very little protection to the right of the union or of employees to organize and have representation.

I have mentioned some of the problems involved. I think the Senator from Kentucky [Mr. COOPER] put his finger on the problem at the beginning of the argument. The Senator said he was not opposed to closing the so-called gap. I think I interpret correctly the remarks of the Senator. He recognized the problem in the committee. He recognizes the problem now, as does the Senator from Massachusetts. But the Senator does not feel, when we have 1 problem, we should compound it by adding 3 more. What the Senator is attempting to do is find language which will close the gap and at the same time put the money and manpower on the line to permit the Federal law to be enforced.

I thank the Senator for his courtesy and patience.

Mr. WATKINS. I thank the Senator very much for all of his comments. They are very interesting.

I point out, however, that, in my opinion, it was a very wise and sound decision of the National Labor Relations Board not to take jurisdiction in the Guss case, because there was some $50,000 involved in 2 or 3 transactions outside the State, with the majority of the business of the company being done within the State of Utah. That was an intrastate case, really. That is the situation we are trying to clear up.

The National Labor Relations Board would be loaded down with an impossible task if it tried to consider all the cases. The Board would become so big and cumbersome it could not operate if it had to consider every dispute between management and labor throughout the United States and had to take jurisdiction simply because some interstate commerce was involved in the operation of these companies or industries.

Somewhere along the line we have to recognize the States. The States have to have something to say. The States will have machinery, if they do not have it already. We should not deny the right to the States which already have the machinery—and there are 12 of them—to operate in this field, in considering cases of this kind. Apparently that is the only kind of case involved.

Mr. SYMINGTON. Mr. President, will the able Senator yield?

Mr. WATKINS. I yield. I should like to close my remarks in a moment. I have been on my feet for more than 2½ hours.

Mr. SYMINGTON. I should like to ask a question or two. Is this not a problem which arises as a result of either inefficiency at the National Labor Relations Board, or lack of adequate funds needed to operate the agency in accordance with the law?

Mr. WATKINS. I cannot agree at all with what the Senator is suggesting. The employees of the National Labor Relations Board are human, as all of

us are. We are not too adequate in the Senate. Those men are as human as we are.

As a matter of fact, it would be a tremendous task if we were to ask those men to enter a field so all-encompassing as, say, the Guss case. There are a great number of such cases. The National Labor Relations Board would need so many examiners to handle so many of these cases, which would come pouring in, it would be almost impossible for any organization to take care of them.

I do not think it is a matter of inefficiency. The job is tremendous. That is why I believe those who insist upon more and more Federal activity and the taking over of more and more of the functions of the States are on the wrong track entirely. When such persons say this situation is the result of inefficiency, and that the task is one anybody can do, if given enough money, that simply is not the answer.

Mr. SYMINGTON. Will the able Senator yield further?

Mr. WATKINS. I yield.

Mr. SYMINGTON. If the Board is given enough money to properly handle the job as outlined in the legislation which has passed the Congress, it would not be necessary to adopt this amendment, would it?

Mr. WATKINS. I think, as a matter of fact, the Board should not assume that much. Of course, something in addition to money is needed in a case of that kind. Money will not do the entire job.

Mr. COOPER. Mr. President, will the Senator yield?

Mr. WATKINS. I yield.

Mr. COOPER. I attended the hearings. The counsel for the NLRB testified as to this matter. I will try to clear up the record a bit.

It was evident from the record as to the work of the NLRB that the Board has done effective and efficient work. The employees of that organization have worked hard. The National Labor Relations Board has done a good job.

The counsel was closely questioned by both the Senator from New York [Mr. IVES] and the Senator from Oregon [Mr. MORSE]. Records were put in the hearing transcript to show the Board had done an effective job.

The counsel did say the National Labor Relations Board did not have enough money and that, if given $3 million more, the Board could handle an additional caseload equal to 20 percent of the present caseload. But the counsel said, "Even if we get the $3 million we will not be able to handle the entire case load."

I think in all honesty it ought to be said there might be a point, if there were available X million dollars, when the Board could handle every case, but that situation does not exist today.

Mr. WATKINS. As a matter of fact, we would have to have a vast Federal machinery so large and so cumbersome it would be almost impossible to operate, to get down to all of those transactions. There are literally hundreds and hundreds of millions of transactions. It was said in the debate at one time, in considering whether to tax all transactions, that they run into the billions.

If the case has a little Federal activity connected with it, the argument made today is that it ought to be under the direction of the National Labor Relations Board. That is not sound sense. We have to be practical in this matter.

Mr. SYMINGTON. Mr. President, will the Senator yield?

Mr. WATKINS. I yield.

Mr. SYMINGTON. I think I have had almost as much experience with labor negotiations as any Member of this body.

If I correctly understand the distinguished Senator from Utah—and there is nobody in the Senate for whom I have more respect—in effect the Senator says the National Labor Relations Board is not capable of enforcing the law. As a result, if the amendment is adopted it will be possible to do something which I personally think very dangerous; namely, offer special incentives to industry from a particular State because that State can make it possible for industry to pay employees less than necessary in other States.

Mr. WATKINS. I will say to my dear friend, that is not the purpose of the amendment. Any action which is taken with respect to the Federal law would have to be based upon the Federal standards. It would be the State law, but it would be interpreted on that basis, statewide.

Mr. SYMINGTON. It would not be on the basis of a Federal standard would it, if it were an intrastate operation?

Mr. WATKINS. Let us consider the Guss case. There were two transactions outside the State, amounting to about $50,000, and the transactions within the State amounted to more than $150,000. That was largely an intrastate operation.

Are we going to ask the Federal Government to operate only on the Federal side, while we have the State board come in on the other side? Is that the idea? That would call for much duplication.

Mr. SYMINGTON. Mr. President, I am sorry to tell my friend I do not know all the details of the Guss case.

Mr. WATKINS. That is the situation we are talking about. It is really a "no man's land" area.

Mr. SYMINGTON. I am afraid if we pass a law which makes it possible for one State to offer industry a more favorable labor situation than another State can offer, this with the premise that the National Labor Relations Board cannot do its assigned job, we shall get into the same type and character of situation I have heard many Senators object to many times on this floor. For example, as to whether a particular power situation in a particular locality gives advantages, by law, which do not seem fair to other States, is a matter often discussed on this floor.

Mr. WATKINS. If a Federal law is involved and the States have anything to do with the matter the States will have to enforce the Federal law according to the standards. There is concurrent jurisdiction in many areas, between the States and the Federal Government. That is not a new idea. There are certain persons who want to turn everything which has anything to do with labor over to the Federal Government, whether intrastate or interstate. When we have the two areas, there is no reason on earth why the State agencies cannot operate in that field and why we could not cede jurisdiction to the States.

Mr. SYMINGTON. Mr. President, I make this observation to my distinguished friend: Just because one wants to have administration of the law through the National Labor Relations Board in accordance with legislation passed by the Congress, one should not be accused of wanting to see the Federal Government handle everything. After all, we passed the law.

Mr. WATKINS. I did not refer to the Senator. I referred to certain persons—and there are many in the country—who want that to happen. With the billions of transactions involved, the Federal Government cannot go into them all.

Mr. BUTLER. Mr. President, will the Senator yield?

Mr. WATKINS. I yield.

Mr. BUTLER. If the National Labor Relations Board should assume jurisdiction in all cases in this no man's land, what would be the Senator's estimate as to the number of examiners needed to handle the workload?

Mr. WATKINS. I am not sufficiently well informed to estimate the number. I do not think anybody could estimate very exactly until he went into the matter thoroughly.

Mr. BUTLER. In effect, would we not be building on top of an already-established Federal judiciary another judiciary almost equal in size to handle nothing but labor cases?

Mr. WATKINS. We are getting too much Federal Government now. We ought to be going in the other direction and cutting down on Government. If there is a field in which the State can operate legitimately, and apply Federal standards on interstate business, we ought to allow the State to take that share of the load. The Federal Board cannot take it all. No agency under the sun would be wise enough to undertake a task of that kind.

Mr. BUTLER. Mr. President, will the Senator yield?

Mr. WATKINS. I yield.

Mr. BUTLER. As the Senator from Kentucky has stated, the NLRB itself said it could not assume more than 20 percent in addition to the work it is now carrying. So the only way it could be done would be to increase the number of examiners on the staff of the Board to the point where it would be almost equal to another Federal judiciary on top of the one we already have.

Mr. WATKINS. I thank the Senator for his comment.

Mr. President, I should like to finish my presentation. I ask unanimous consent to have printed in the RECORD at this point as a part of my remarks the remainder of the statement which I had prepared. It is considerably distant in point of time from the beginning of the

presentation, but probably it will fit in.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR WATKINS

On May 8, 1957, Richard F. Hooker, secretary of the Contractors and Suppliers Association, of western Michigan, had the following to say concerning the same measure:

"I am attorney and executive secretary for Contractors and Suppliers Association, of western Michigan, a nonprofit corporation serving employers in the building industry in the Grand Rapids area. Since most of our member employers fall within the void created by the recent Supreme Court decisions regarding Federal preemption in labor cases, we are vitally interested in the proposed legislation designated above. Congressman GERALD R. FORD, of this district, has sent us a copy of the bill.

"At a recent membership meeting our members were unanimous in urging the prompt attention of Congress to this very serious problem. Delay can only work to the advantage of the large international unions who have shown complete disregard for State and Federal law in their organizing efforts. The aforementioned Supreme Court decisions have caused them to accelerate these illegal activities. Without corrective legislation, our members and those similarly situated are at an extreme disadvantage in protecting their rights and the rights of their employees. We hope that you will be successful in convincing your colleagues to act on Senate bill 1723 within the next few weeks."

In July 1957 the Illinois State Chamber of Commerce submitted for my examination a synopsis of a case pointing up the problems which have developed under this no man's land condition. Recently conversations with the manager of the labor relations department of that State chamber of commerce indicate that the situation as detailed in their letter still exists and still awaits a solution:

The Illinois State chamber is vitally interested in this problem and the State chamber's labor relations committee has followed the developments in a local case which dramatically points up the dire need for this proposed legislation. The case involves Mr. Carl Eckhardt, a small filling station operator in Morton Grove, Ill., and the Teamsters Union. In May 1955 representatives of the Teamsters Union repeatedly demanded that Eckhardt recognize the union as the bargaining agent and sign a contract compelling the employees to join the union. Eckhardt's position was that he would recognize the union as the bargaining agent of his employees and would sign a contract if the union actually represented a majority of his four employees. The union representatives admittedly had never approached the employees soliciting their membership in the union and declined to do so when Eckhardt invited them to do so on his time. On May 24, 1955, the teamsters commenced picketing Eckhardt's place of business to coerce him into compelling his employees to join. The picketing has continued to date—over 2 years.

In November 1955 the NLRB refused to take jurisdiction of the matter inasmuch as Eckhardt, being a small filling station operator, did not do a sufficient amount of business in interstate commerce to meet the jurisdictional standard requirement. Eckhardt then filed suit for an injunction in the State court, however in May 1957 the master in chancery recommended dismissal for want of jurisdiction in view of the previously mentioned Guss case. Petitions then were filed again with the NLRB asking that the Board take jurisdiction, but on June 11, 1957, the Board again declined to take jurisdiction of the case. Accordingly, Eckhardt is in no man's land with no forum before which he may obtain a hearing on the merits of the case.

The Illinois State chamber's concern in this matter is not predicated on one individual case, but the Eckhardt case is a vivid example of the problem as it exists nationwide.

I submit that the language proposed by the committee does not solve the problem at all but leaves the situation just as it is today. The amendment which I have proposed recognizes the workload which presently faces the Board and which from all indications will continue to face the Board through the years to come. The members of the committee recognize this workload and in their report when they state:

"The committee has recommended more ample appropriations to enable the Board to discharge its full duties and other amendments are designed to simplify and speed up NLRB procedures. The committee is also desirous that the NLRB take every possible step to streamline its procedures and to minimize confusion occasioned by frequent changes in interpretations of the law, which (1) unsettle bargaining relations, and (2) lead to unnecessary litigation, thereby creating burdens the Board says it is not competent to handle. Such a combination of measures will go far in eliminating the 'no man's land' in which lawlessness and irresponsibility breed."

By the most general study of the report the committee it is shown that the no man's land problem has not been solved. My amendment on the other hand would recognize the discretion inherent in the Board's procedure to determine the question of whether or not the particular case falls within the jurisdiction of the Board. It leaves to the Board discretion to reexamine and redefine this question of jurisdiction in light of changes incident to national progress. It specifically reserves all other cases to the jurisdiction of the State agencies and State courts, thus removing the doubt existing under the committee bill, and putting to rest once and for all the intention of Congress as pointed up by the Supreme Court in the Guss case.

I plead with my colleagues to take a realistic look at this problem for I feel certain that if this is done they will arrive at the conclusion which I have arrived at, namely, that unless we adopt this amendment which I now propose the Senate will be called upon in a few months to fill the gap left by the language in the committee bill.

Mr. WATKINS. Mr. President, I conclude by pointing out a few generalities.

There is general agreement as to the need for a so-called no man's land amendment.

The President of the United States has made recommendations for the correction of this situation.

The McClellan committee has recommended legislation authorizing States and Territories to assert jurisdiction over labor disputes when the National Labor Relations Board declines to act.

The Council of State Labor Boards has adopted a resolution calling on Congress to make necessary amendments to the law to eliminate the "no-man's land."

The American Bar Association has adopted a resolution urging that this legal vacuum be eliminated.

A number of bills have been introduced in the Senate to accomplish this objective.

My amendment is directed at the real evil which now exists. I believe that its adoption would clear up a very bad situation.

Mr. President, I yield the floor.

EXHIBIT 1

[From the CONGRESSIONAL RECORD of April 28, 1958]

Mr. WATKINS. Mr. President, I have called up my amendment to the pending bill. By way of identification, let it be referred to as the no-man's land amendment.

This is a rescue operation, and I take it a rescue operation is always in order. I want the Members of the Senate who have other things to do to listen to this presentation, because some time or other they will have to face a record on this amendment.

This is called the no-man's-land amendment because it seeks to rescue American citizens who are taxpayers—laborers, union members, and employers—from a situation which is almost intolerable. That is why I say it is always in order. I hope my Democrat friends on the other side of the aisle will consider this matter in voting upon the amendment.

* * * * *

Mr. WATKINS. Mr. President, I will include a technical explanation of the amendment, but first I would like to describe for my colleagues the origin of this proposal.

The amendment is the text of S. 1723, which I introduced early in the first session of this Congress. It was proposed by me after the Supreme Court ruled on March 25, 1957, in what has now become known as the Guss case, the effect of which was to leave a no man's land between the areas of State jurisdiction and Federal jurisdiction in unfair labor practice cases.

In the Guss case the businessman doing business in Utah was so engaged that his business was determined to affect commerce within the meaning of the National Labor Relations Act; thus the National Labor Relations Board had jurisdiction.

The National Labor Relations Act specifically deals with the conduct charged in the Guss case. The National Labor Relations Board declined jurisdiction but had not entered into a cession agreement with the Utah Labor Relations Board. In other words, they had not conceded officially, so that the Utah Labor Relations Board could take jurisdiction.

At the same time the Guss case was decided, the Supreme Court decided the Fairlawn Meats case which arose in Ohio and the Garmon case against San Diego Building Trades Council. These decisions, when read in conjunction with previous decisions of the Supreme Court, established a no man's land in labor practices litigation, for we have established now the absolute supremacy of the National Labor Relations Act to such an extent that a litigant who has declined the jurisdiction of the National Labor Relations Board and the litigant whose case falls within a category of cases which the National Labor Relations Board has previously refused to grant jurisdiction to are just the same precluded from taking their grievances into State courts.

This leaves both the worker and the small-business man with a grievance but absolutely no way to litigate the question so as to arrive at a solution. This is working to the detriment of thousands of small-business men at the present time, and in a similar way it is affecting the lives of those who are employed in these small businesses.

This inequity was called to the attention of Congress back in the 83d Congress by the report of the Committee on Education and Labor to accompany S. 2650, No. 1211. On page 17 of that report there appears, under the title "State Powers," an ample description of this problem, which was evident even before the Guss case. As the Members of

the Senate will remember, that bill, after full hearings, was recommitted, as recommended in the minority views by both the chairman of the full committee and the present chairman of the Subcommittee on Labor.

The problem has been called to the attention of the committee by my colleague, the senior Senator from New York [Mr. IVES] and myself. In fact, I have a letter from the chairman of the Subcommittee on Labor, dated May 13, 1957, in response to a communication sent to the chairman of the full committee concerning my bill, S. 1723. In that reply, the junior Senator from Massachusetts [Mr. KENNEDY] made the following statement:

"As you know, the Subcommittee on Labor has been holding extensive hearings on extension and coverage problems under the minimum-wage law, and our schedule has been full. At the present time there are no plans for immediate hearings on any amendments to the Taft-Hartley Act. However, I will be more than glad to keep Mr. Mathias' letter in the subcommittee files and to bring it to the attention of the subcommittee at such time as legislation on this subject is under consideration."

I cite this, Mr. President, as evidence of the attention which this particular problem has had by both the present and the previous Senator Labor Committee, and as evidence of the attention which we can anticipate it will receive in the future.

The only time that an attempt was made to rectify this error was in the 83d Congress. The same problem has existed and ample opportunity has been given for corrective action to have been taken.

I believe that Senator KENNEDY's statement, "At the present time there are no plans for immediate hearings on any amendments to the Taft-Hartley Act" is as valid today as it was on May 13, 1957, when he so stated such in reply to my letter.

In order that this record not be incomplete, I ask unanimous consent to insert at this place in my remarks copies of the three Supreme Court decisions to which I have referred; namely, the Guss case, the Fairlawn case, and the Garmon case.

The PRESIDING OFFICER. Without objection, the decisions may be printed in the RECORD, as requested.

(See exhibit 1.)

Mr. WATKINS. Mr. President, so long as the Guss case stands, Americans are deprived of their fundamental right to the use of our courts in litigating and thus solving disputes, because it places a particular group outside the jurisdiction of any court or tribunal.

I do not believe that it was the intention of any Member of the Senate or of the House to bring about such a result through passing previous labor-management legislation. If it was not the intention of this body to so deprive Americans of this fundamental right, then by voting for this amendment their intentions and their interpretation of the existing act can be made manifest and a fundamental inequity corrected.

If, however, members of this body are of the opinion that an American taxpayer should be deprived of a forum in which to litigate his labor-relations problems merely because the National Labor Relations Board declines jurisdiction or because his business falls within a category of businesses wherein the National Labor Relations Board has refused to exert jurisdiction, then let them vote against the amendment. Let them vote against the "rescue operation."

I do not believe that the present situation reflects the intention of Congress, but irrespective of what it reflects I do not believe the present situation should be permitted to continue to the detriment of these hundreds of workers and small-business men who must settle their labor relations problems under this no man's land decision.

I close with a quotation from the decision of the Supreme Court in the so-called no-man's land case, the Guss case:

"And here we find not only a general intent to preempt the field but also the proviso to section 10 (a), with its inescapable implication of exclusiveness.

"We are told by appellee that to deny the State jurisdiction here will create a vast no man's land, subject to regulation by no agency or court. We are told by appellant that to grant jurisdiction would produce confusion and conflicts with Federal policy. Unfortunately, both may be right. We believe, however, that Congress has expressed its judgment in favor of uniformity. Since Congress' power in the area of commerce among the States is plenary, its judgment must be respected whatever policy objections there may be to creation of a no man's land.

"Congress is free to change the situation at will. In 1954 the Senate Committee on Labor and Public Welfare recognized the existence of a no man's land and proposed an amendment which would have empowered State courts and agencies to act upon the National Board's declination of jurisdiction. The National Labor Relations Board can greatly reduce the area of the no man's land by reasserting its jurisdiction and, where States have brought their labor laws into conformity with Federal policy, by ceding jurisdiction under section 10 (a)."

In other words, the Court is asking Congress to perform the rescue operation.

There is a note to this decision which I think is very interesting and should be considered. The note to Mr. Justice Warren's decision is as follows:

" 'The effect * * * of the Board's policy of refusing to assert its jurisdiction has been to create a legal vacuum or no man's land with respect to cases over which the Board, in its discretion, has refused to assert jurisdiction. In these cases the situation seems to be that the Board will not assert jurisdiction, the States are forbidden to do so, and the injured parties are deprived of any forum in which to seek relief' (S. Rept. No. 1211, 83d Cong., 2d sess., p. 18). The minority agreed that 'when the Federal Board refuses to take a case within its jurisdiction, the State agencies or courts are nevertheless without power to take jurisdiction, since the dispute is covered by the Federal act, even though the Federal Board declines to apply the act. There is thus a hiatus—a no man's land—in which the Federal Board declines to exercise its jurisdiction and the State agencies and courts have no jurisdiction'."

In conclusion, we have a situation which should appeal to the equity powers of the Congress of the United States. No matter what the arguments have been in the past with respect to amendments to the Taft-Hartley Act, with respect to procedures, and so forth, here we have a case in which American citizens are denied the forum in which to have their rights decided. That has been going on for many years. Parties can obtain no relief.

* * * * *

Let me call attention also to the fact that this question was carefully considered in 1954. As a part of the recommendations of the majority of the Committee on Labor and Public Welfare, which submitted a report to the Senate, No. 1211, there was included an amendment in S. 2650 to take care of this situation. The bill was discussed, and, as I recall, it was recommitted upon the solid vote of the Democratic Members of this body.

* * * * *

Mr. WATKINS. Earlier in the debate on the bill, I called attention to a speech made by the late Senator Walter George, of Georgia. I do not cast any aspersions upon Senators who oppose the amendments. I believe they are sincere. But I believe they are mistaken. I think we can be excused for not relying upon their judgment as to what may happen in the future.

I think the situation with which we are now faced is very much the same as that which confronted Senator George at the time the motion to override the veto of the Taft-Hartley bill was before the Senate. A part of the speech by Senator George, which was not long, was placed in the RECORD by me earlier in the debate. I ask unanimous consent that the entire speech may be printed at this point in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

"Mr. GEORGE. Mr. President, I wish to say at the outset that I have not the slightest doubt that the President of the United States is entirely sincere in submitting his veto message. I have no doubt also that he has analyzed the bill with the assistance of those in the executive branch of the Government who are unfriendly to this legislation. But I have no doubt that the President has reached what he considers to be an entirely honest decision on this measure.

"Mr. President, I voted for this legislation when it came before the Senate. I voted for the conference report; and I shall have to vote to override the President's veto. My reasons are simple. Within 10 minutes, of course, I could not undertake and would not undertake to discuss the merits of the bill as such.

"Almost 12 years ago, in July 1935, the Congress of the United States and the President of the United States approved the Wagner Act. I voted for the Wagner Act. I therefore do not appear on this floor as one unfriendly to labor. At that time I believed that it was necessary to pass the Wagner Act, although I realized that it was a very one-sided piece of legislation.

"What has occurred in the interim? For nearly 10 years, at least, honest men in industry, and many in labor, as well as many not directly connected with either management or labor, have earnestly besought the American Congress to make some simple, sensible amendments to the Wagner Act.

"What has happened? During all that long period of time the Committee on Education and Labor in the United States Senate has held the line, and aside from the present bill has brought to this floor only one other bit of legislation which would have corrected, in a small degree, the inequities and unbalance of the Wagner Act. I refer to the Case bill, which the President saw fit to veto about a year ago after it had been passed by the Congress of the United States.

"I do not criticize the President for the exercise of his veto rights and powers; but I do assert that if there is to be any labor legislation in America, if we are to bring about any degree of balance in the unbalanced condition which has existed for almost 12 years, now is the time to do it, not in anger toward the workers of the Nation, not in resentment of their devotion to legislation which they thought was for their benefit, but simply and solely because this Nation, as a representative government, must somewhere down the road decide whether the people of the United States shall be allowed to function through their lawmaking bodies, or whether organized minorities are to control and dictate the legislation which we must have.

"I speak plainly, but not in anger. There is but one way for us to break the stranglehold of labor bosses—not the rank and file of the workers, but labor bosses who have been unwilling to dot an "i" or cross a "t" for 12 long years. That is to pass this bill and invite labor and management to come to the Congress of the United States, where both should come, and sit around the table as honest men, representing conflicting and ofttimes hostile interests, be it conceded, and there iron out their differences.

"In my opinion this is the final test of whether Government is to function or whether minority groups, highly organized, are to dictate the type of legislation that we shall have. If there were no other reason for the passage of this legislation, I should assuredly support it.

"In his address to this body the distinguished Senator from Oregon [Mr. MORSE], whom I hold in high esteem, asserted that if the bill should prove to be unworkable or have inequities and injustices in it, we could not excuse ourselves by saying that we would vote for it nevertheless. I would agree with him, but when I recall that for 12 years, whatever the merits of the proposal, the Senate Committee on Labor and Education held a stranglehold upon the throat of the American people and would not permit legislation to come before this body, then I must wholly reject the logic of the distinguished Senator from Oregon, which otherwise would be impeccable. This is the only chance that we shall have, but it is a magnificent chance for the American people. I speak not in anger or hostility toward the workers. I speak as one who voted for the original Wagner Act in the firm belief at that time that if inequities did appear and inequalities did exist, we could correct them as a legislative body. I have seen the hands of the legislative body tied. I have seen the legislative body of this Nation helpless in the face of organized minorities operating from outside.

"So, Mr. President, I shall be compelled, much as I regret to do so, to vote to override the President's veto of this bill."

EXHIBIT 2

STATEMENT OF SENATOR WATKINS TO SENATE LABOR SUBCOMMITTEE ON (1) WATKINS BILL, S. 1723, SO-CALLED NO MAN'S LAND BILL, (2) THE CASE OF LOCAL 222 TEAMSTERS UNION AT SALT LAKE CITY

Mr. Chairman, I am appreciative of the invitation to appear before the Labor Subcommittee and to present the case for my no man's land bill, S. 1723.

Before I close I'd like to touch on one other point covered in Rackets Committee interim report, with the committee's indulgence.

The no man's land bill grew out of the Guss case, March 25, 1957. At the same time the Guss case was handed down, the Supreme Court also handed down decisions on *Amalgamated Meat Cutters* v. *Fairlawn Meats, Inc.*, which arose in Ohio, and the *San Diego Buildings Trades Council* v. *Garmon*.

To lay a correct foundation for this presentation, let me recite the facts of the Guss case. This Utah case was P. S. Guss doing business as Photo Sound Products Manufacturing Co. He was engaged as a manufacturer of specialized photographic equipment for the United States Air Force. The business during the period in question involved 3 Air Force contracts, 1 for chemical mixers in the amount of $84,896.73, 1 for printers in the amount of $37,222.42, and 1 for print straighteners in the amount of $29,906.35 (total $152,025.50). To perform these contracts for the Air Force, Photo Sound purchased from sources from outside the State, stainless steel in an amount "a little less than $50,000." The finished products were shipped to the Air Force at Wright-Patterson Field, Dayton, Ohio, and other Air Force bases, both inside and outside the State of Utah.

Shortly after the company started operating, the United Steelworkers of America, CIO, in December of 1953, filed with the National Labor Relations Board, a petition under section 9 of the National Labor Relations Act for certification of that union as the bargaining representative for all of the employees of the company, except clerical and supervisory employees, as defined in the national act. At the time for hearing on the petition on January 19, 1954, the company and the union entered into an agreement for a consent election to be conducted by the National Labor Relations Board. Among other things, this agreement recited that the employer, Photo Sound, was "engaged in commerce within the meaning of section 2 (6), (7) of the National Labor Relations Act."

The election was conducted by the National Board on April 26, 1954, and was won by the union, 15 to 11. Under date of May 4, 1954, the United Steelworkers of America, CIO, were duly certified by the National Labor Relations Board pursuant to section 9 (a) of the National Labor Relations Act.

There ensued a period of charges and recriminations, interposed with collective bargaining sessions. Even before the first bargaining session, the union filed with the National Labor Relations Board, under section 8 (a) (1), (3), and (5) of the National Labor Relations Act, a charge of unfair labor practices against Photo Sound. This charge was being investigated by the National Labor Relations Board during June and July 1954, while the collective bargaining negotiations were in progress.

In July, 1954, the National Labor Relations Board issued the new yardsticks which it indicated it would apply to determine whether it would, in a particular case, exercise the exclusive jurisdiction granted it by Congress (NLRB Release No. R–445, July 1, 1954, and No. R–449, July 15, 1954). Applying this new yardstick, the National Board under date of July 21, 1954, declined to consider the matter of the charges filed by the United Steelworkers of America, CIO, against Photo Sound, stating:

"Further proceedings are not warranted, inasmuch as the operations of the company involved are predominately local in character and it does not appear that it would effectuate the policy of the act to exercise jurisdiction. I am, therefore, refusing to issue complaint in this matter."

The union, in this notice, was advised that it had the right to a review of this action taken by the National Board in declining to exercise its jurisdiction, but no such appeal was taken.

On July 20, 1954, the union filed substantially the same charge with the State board that it had previously filed with the National Board. No complaint was issued by the State board until January 14, 1955, and notice of hearing thereon issued the same date.

At the hearing on the charges before the State board on February 7, 1955, the company presented its contention that the matter was not within the jurisdiction of the Utah board, but within the exclusive jurisdiction of the National Labor Relations Board, and objected to the introduction of all evidence and other proceedings on the same grounds. At the close of the union's case, the company renewed its motion to dismiss on the ground that the proceedings were not within jurisdiction of the National Labor Relations Board. The ruling was reserved on the issue by the hearing examiner.

The hearing examiner ruled that the business of Photo Sound affected intrastate as well as interstate commerce and concluded therefrom that the State board had jurisdiction. Appellant filed its exceptions claiming the matter was exclusively within the jurisdiction of the National Board and that the National Board had not ceded such jurisdiction. The Utah State Labor Relations Board affirmed the ruling of the hearing examiner and issued an order directing Photo Sound to cease and desist from refusing to bargain collectively with the CIO and directing it to take certain affirmative action with respect to certain of its ex-employees designated in the order.

After a motion for rehearing based upon the same contention, that section 10 (a) of the national act precluded State action was denied, a writ of review was obtained from the Supreme Court of Utah upon a petition alleging that—

"Contrary to the specific grant of exclusive power to the National Labor Relations Board under said act, the Utah Labor Relations Board has entertained a charge filed with it by the United Steelworkers of America, CIO, and issued a complaint thereon against petitioner. That despite the contentions of petitioner concerning the lack of jurisdiction of said board, said board, under date of June 21, 1955, issued its decision and order relating to the labor relations of petitioner, and on June 29, 1955, denied petitioner's motion for rehearing. At all times herein petitioner has contended said board was wholly without authority or jurisdiction to act in the matter."

The only issue briefed or argued to the Supreme Court of Utah was the Federal constitutional question. The posture of the case before the Utah Supreme Court was thus stated in its opinion as follows:

"The employer obtained this writ of review for the purpose of questioning the jurisdiction of the Utah Labor Relations Board. The sole question before us is whether the State board may act in relation to a business admittedly engaged in interstate commerce and subject to the National Labor Relations Act and the National Labor Relations Board, when that Board declines, upon the grounds stated, to exercise jurisdiction" (*Guss* v. *Utah Labor Relations Board* (296 P. 2d 733, 734)).

The Utah Supreme Court upheld jurisdiction of the State board.

At the same time the Court of Appeals for the 10th Circuit (Colorado, Wyoming, Utah, Kansas, Oklahoma, and New Mexico), in *Retail Clerks* v. *Your Food Stores* (225 F. 2d 659), held:

"Moreover, the refusal by the NLRB to entertain the instant grievance on its merits did not of itself alter the pertinent law, thereby revesting the State court with authority to proceed. Amended section 10 (a) of the act specifically provides what this court deems to be the only way State authorities can be vested with authority now within the exclusive purview of the act. Unless and until there is an express ceding of jurisdiction to a proper State agency, exclusive jurisdiction remains in the Federal agency. For sake of order such must be true. Otherwise, an interminable problem of determining jurisdiction would exist, throwing needless confusion into an area clearly preempted by Congress" (225 F. 2d 659, 653).

Thus, in Utah, depending upon whether the issue was before a State or a Federal court, different results would be obtained.

The United States Supreme Court, in the Guss case, reversed the judgment of the Utah Supreme Court.

Mr. Chairman, the committee should have before it the facts of the Utah case so it may be seen just what the United States Supreme Court reversed. The best recital of the charges and rulings is set forth in the intermediate report of Trial Examiner Robert J. Shaughnessy:

"THE UNFAIR LABOR PRACTICES

"1. The discharges

"1. Charles Illsley was employed by the respondent[1] in October of 1953. The following month he signed a union-authorization card. He became active immediately in promoting the union among fellow employees. He acted as the union observer at

---

[1] At the hearing before the Utah Labor Relations Board, Photo Sound Products Manufacturing Co. (the appellant herein) was designated as the respondent, and United Steelworkers of America, CIO, was designated as the claimant and petitioner.

the time of the NLRB election. He later became a member of the union negotiating committee and grievance committee. He participated in virtually all negotiations that were held between the company and the union until negotiations ceased. Illsley was discharged in August 1954 after negotiations had broken off and the NLRB had refused to issue a complaint.

"After the advent of the organization campaign it seems from all the evidence that a general attitude of antiunion conduct developed on the part of management toward the infant union. Negotiations were not satisfactory. The respondent failed to give proper attention to the request of the union for meetings or discussions on grievances. Since Mr. Illsley was spearheading the union movement in all these fields, it follows that because of the general antiunion attitude of the respondent they were most anxious to see him discharged.

"In point of seniority in his classification he was the oldest employee of the respondent. His successor was another employee of the respondent that did not work for Photo Sound but an entirely separate operation that the respondent maintained elsewhere.

"The referee finds and concludes that Charles Illsley was discharged solely because of his activities for and on behalf of the complainant union.

"2. Gary Watrous was employed as a clerk and stock-record keeper in the production shop and had been so employed since July 15, 1953. Mr. Watrous had attended a meeting of the union at which the respondent's manager, Mr. Garber, spoke. He had met in cars outside respondent's place of business with the union representative, Mr. Mullet, and had been observed by Mr. Garber, who also knew the request for meetings were reasonable as to number, time, and place. For these reasons the record supports a finding that the respondent has since on or before refused to bargain collectively with the duly designated representatives of their employees."

The Utah Labor Relations Board, on June 21, 1955, affirmed the trial examiner's rulings and adopted as its own the findings of facts as made in the intermediate report and recommended order.

In the concluding paragraphs of March 25, 1957, United States Supreme Court decision, Chief Justice Warren, speaking for the Court, stated:

"We are told by appellee that to deny the State jurisdiction here will create a vast no man's land, subject to regulation by no agency or court. We are told by appellant that to grant jurisdiction would produce confusion and conflicts with Federal policy. Unfortunately, both may be right. We believe, however, that Congress has expressed its judgment in favor of uniformity. Since Congress' power in the area of commerce among the States is plenary, its judgment must be respected whatever policy objections there may be to creation of a no man's land.

"Congress is free to change the situation at will. In 1954 the Senate Committee on Labor and Public Welfare recognized the existence of a no man's land and proposed an amendment which would have empowered State courts and agencies to act upon the National Board's declination of jurisdiction. The National Labor Relations Board can greatly reduce the area of the no man's land by reasserting its jurisdiction and, where States have brought their labor laws into conformity with Federal policy, by ceding jurisdiction under section 10 (a). The testimony given by the Chairman of the Board before the Appropriations Committees shortly before the 1954 revisions of the jurisdictional standards indicates that its reasons for making that change were not basically budgetary. They had more to do with the Board's concept of the class of cases to which it should devote its attention.

"The judgment of the Supreme Court of Utah is reversed."

The result of this decision, therefore, was to recognize that the United Steel Workers had been aggrieved but to deny them a forum in which to seek redress.

It is a bit ironical that I am here today citing the Guss case as a reason for adoption by this committee of the language of my bill S. 1723 since the Supreme Court in deciding the Guss case cited this language from the Senate bill S. 2650 of the 83d Congress as a reason for its decision. That language and the text of S. 1723 are substantially the same.

I refer to the final paragraph of the Court's opinion and footnote No. 16:

"In 1954 the Senate Committee on Labor and Public Welfare recognized the existence of a 'no man's land' and proposed an amendment which would have empowered State courts and agencies to act upon the National Board's declination of jurisdiction.

"The effect * * * of the Board's policy of refusing to assert its jurisdiction has been to create a legal vacuum or 'no man's land' with respect to cases over which the Board, in its discretion, has refused to assert jurisdiction. In these cases the situation seems to be that the Board will not assert jurisdiction, the States are forbidden to do so, and the injured parties are deprived of any forum in which to seek relief" (S. Rept. No. 1211, 83d Cong., 2d sess., p. 18). The minority agreed that "When the Federal Board refuses to take a case within its jurisdiction, the State agencies or courts are nevertheless without power to take jurisdiction, since the dispute is covered by the Federal act, even though the Federal Board declines to apply the act. There is thus a hiatus—a 'no man's land'—in which the Federal Board declines to exercise its jurisdiction and the State agencies and courts have no jurisdiction" (id., pt. 2, p. 14). The committee's bill, S. 2650 was recommitted (CONGRESSIONAL RECORD, vol. 100, pt. 5, p. 6203).

Mr. Chairman, my appearance completes a 360° ride on this merry-go-round. This language has gone from the committee to the Court and back to the committee.

As the committee is aware Utah is 1 of 10 States having State labor boards. S. 1723 is so drafted as to provide a forum for all aggrieved parties denied jurisdiction before the NLRB.

In Utah and nine other States the remedy will commence with the State board and in those other States not now enjoying the benefits of a State board the remedy shall commence with the State courts.

I have heard no objection to the proposal to rescue these people from this legal "no man's land." I sincerely believe this inequity will be corrected. I can't urge too strongly that it be done now while there is yet time to obtain approval from the other House, before adjournment.

My bill is a suggested solution. Senator IVES, a distinguished member of the Labor Committee, also has a proposal to remedy this defect pending before the committee. I leave it to the discretion of you gentlemen of the committee who are experts in this field the difficult job of deciding upon the preferential language.

TRUSTEESHIP

In my opening remarks I mentioned that I intended to address the subcommittee on another area of much-needed labor legislation.

I wish to discuss a problem that arose recently in Utah regarding trusteeship. The subcommittee heard at length yesterday from Professor Cox, of Harvard Law School, a recognized gentleman in the field of labor law. He devoted a considerable portion of his time to the question of trusteeships and abuses possible thereunder.

Recently in Utah certain members of local 222 of the International Teamsters Union became vocal on the abuses perpetrated under the trusteeship that has existed over their local for 20 years. Out of expressions of concern voiced by one such member came a threat delivered to him in typical gangland style which caused him to employ counsel. That threat is the subject of a letter dated April 25, 1958, addressed by the attorney to Senator MCCLELLAN.

Mr. Chairman, that letter points up more clearly than anything I could say as to the general need for this type of legislation. I do wish to ask that the chairman carry with him to Senator MCCLELLAN the most sincere request that Mr. Plenkinton's problem receive prompt attention by the Rackets Committee.

I'm requesting of Senator MCCLELLAN that a staff investigator be sent to Salt Lake City to speak with Mr. Plenkinton and five others whom I have named in my letter to the Senator.

All 6 of these men are members of local 222 of the teamsters union and will testify to abuses in their local, if called upon by the committee.

When asked for the name of the trustee of their local, these men were unable to reply. A call to the industrial relations office developed that the present trustee is a fellow residing in Los Angeles.

This situation has existed for 20 years, and the members of this local need help in getting control of their union where it belongs—in the hands of the Utah membership.

I recommend no language to correct this and other abuses perpetrated under extended trusteeship, but I do request that the committee members consider this example when drafting legislation to deal with the problems of trusteeship.

It goes without saying that these six teamster members will be happy to appear at the subcommittee's request if their testimony would be of further enlightenment.

I know I express their appreciation along with my own when I thank the chairman and the members for this opportunity to appear. These Teamsters join me likewise in pleading for remedial legislation which must start in this subcommittee.

Thank you.

Mr. CURTIS. Mr. President, I ask unanimous consent to have printed in the RECORD at this point a section-by-section analysis of the amendment which I have submitted, and which is at the desk.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

AMENDMENT TO S. 3974—ANALYSIS

I would like to undertake an analysis of the provisions of my amendment so that the Members of the Senate can be made aware of the necessity of closing the major loopholes in the present secondary boycott section of the National Labor Management Relations Act.

As you all know, the present law attempts to deal with secondary boycotts presently regulated in part by section 8 (b) (4). It is this section that my amendment 6-12-58H would change.

Subsection (4): Subsection (4) of the present law contains four prohibitions. In order to read and understand those four prohibitions it is necessary to read each one by going back to section 8 (b) which reads as follows:

"It shall be an unfair labor practice for a labor organization or its agents." Then read subsection (4) which presently reads, "to engage in, or to induce or encourage the employees of any employer to engage in, a strike or a concerted refusal in the course of their employment to use, manufacture, process, transport, or otherwise handle or work

on any goods, articles, materials, or commodities or to perform any services, where an object thereof is:"

But my proposal amends in part the latter quotation. It also amends certain paragraphs of such subsection and adds two additional paragraphs.

Thus on line 7 of my amendment the new subsection (4) appears. It would revise Taft-Hartley to read:

"(b) It shall be an unfair labor practice for a labor organization or its agents—

"(4) To exert, attempt to exert, or threaten to exert (regardless of the provisions in any collective bargaining or other contract) against an employer, or employees of an employer, economic or any other type of coercion, by picketing or by any other means, where an objection thereof is * * *."

This is at once a simplification and an extension of subsection (4). It is my intent that the general prohibition against the exertion of pressure, economic or otherwise, includes, among other things, the inducement and encouragement of employees to refuse to perform work as set forth in the present act. It also covers any other type of union activity which exerts pressure against an employer or employees of an employer as I will hereafter discuss in greater detail. It also is designed to close five of the present Taft-Hartley secondary boycott loopholes, which I shall now proceed to discuss.

HOT CARGO

Note the parenthetical expression on line 8, page 1, and line 1, page 2, which reads: "(regardless of the provisions in any collective bargaining or other contract)."

This would outlaw the making of the so-called hot-cargo secondary-boycott clauses now used so extensively by the teamsters and building trades unions. Among the building trades, these types of boycott clauses are known as "standard form of agreement" clauses.

In effect these clauses permit unionized employees to refuse to handle goods labeled as "unfair" or "hot" by the union. They are intended to serve as a defense to an otherwise unlawful inducement of neutral employees to enforce a secondary boycott. Hot cargo may be used to force the unionization of the employees of a secondary employer or used to bring pressure on a secondary employer who is having a labor dispute.

With a hot-cargo clause, a union official may order an employer, under the threat of a strike, to stop doing business with another employer.

Here is how it has worked in two well-known situations. When the employees of the Galveston Truck Lines, of Houston, Tex., refused to join the Teamsters Union, the union applied pressure on interline carriers in Oklahoma City not to accept freight from Galveston unless Galveston employees joined the teamsters.

The immediate victims of such action, aside from the employees of Galveston Truck Lines, whose jobs were imperiled, were the scores of Houston firms who ship via Galveston Truck Lines. Their freight was tied up because workmen hundreds of miles away in another city refused to move it.

As for the building trades use of such clauses, let's look to Baltimore. Here the unions sought to force all unionized contractors not to do business with contractors whose employees did not want to join the building trades union. In other words, unionized general contractors could not hire nonunion subcontractors, and unionized subcontractors could not work for nonunion general contractors.

EMPLOYER PRESSURE

Subsection (4), in line 1, page 2, refers to the exertion of economic coercion and pressure against an employer. This is a change from the present Taft-Hartley Act to close another major boycott loophole. The present act makes it an unfair labor practice for a union to induce or encourage employees of any employer to commit a secondary boycott. Nothing is said about inducement of employers.

Union officials have grasped at this language defect to bypass the employee and threaten the employer with labor trouble unless he stops doing business with another firm. The National Labor Relations Board and the courts have interpreted such action as beyond the statute.

The typical example of such a loophole is the now famous Burt Manufacturing Co. case of Akron, Ohio. Burt has a union-shop contract with the United Steelworkers and has had such an agreement for more than a decade.

The sheet-metal workers would like to represent Burt's employees. Their way of trying to persuade Burt employees to switch unions is to put pressure on Burt, the employer. Until now, their activity has been regarded as beyond the prohibitions of Taft-Hartley.

The sheet-metal agents will approach contractors and architects—they stay away from the workmen—and hint that there may be "trouble" on any construction job in which Burt products are specified. This secondary-boycott threat usually is enough to make an architect avoid ordering Burt products.

It is true that a complaint has been issued by the NLRB in the Burt case after an 11-year boycott, but it is problematical whether the Board action will be successful. In any event, it should be made clearly a violation by statute.

CONCERTED ACTIVITIES AND COURSE OF EMPLOYMENT

Now let me return to the language in my amendment. When you compare the first sentence of subsection (4) with the present first sentence of subsection (4) of Taft-Hartley, a careful reading will note the deletion of two phrases. It is from these 2 phrases, now found in the present bill, that we have 2 more boycott loopholes.

Subsection (4) of the present law makes it an unfair labor practice for a union to "engage in, or to induce or encourage the employees of any employer to engage in, a strike or a concerted refusal in the course of their employment" to handle the goods of another firm.

Note the terms "concerted refusal" and "in the course of their employment." These terms have given rise to boycott loopholes, and they are deleted from subsection (4) of my amendment.

CONCERTED

The word "concerted" has been interpreted by the Supreme Court in the famous 1951 International Rice Milling Co. case to mean that the inducement of a single or key employee not to do business with another person does not violate the act.

To make the secondary boycott illegal, the union must encourage concerted or group action by the employees of a neutral employer.

Yet from practical experience, we know that the inducement of a single employee, perhaps a key employee, can be enough to shut down a job or cause enough difficulty for the employer and the other employees to make the neutral employer give in to the union and go along with the secondary boycott.

The second deletion is the phrase "course of employment." This phrase has resulted in an important loophole. It works in this manner. In those situations where workers have not yet been hired, the inducement of those workers not to go to work for a particular employer is not considered by the Labor Board a violation of the present act. It is particularly effective when the union, usually through a hiring hall, controls the labor supply for an industry in a particular community. The union hiring hall may tell a contractor it does not have men available, or that the men will not be assigned to work on a certain job because the union objects to some company with whom the contractor is doing business.

In such cases, employees of the contractor and employees of the manufacturer lose work, and one or both of the employers may have their business destroyed.

This loophole was created by the NLRB in 1953 in the Joliet Contractors case. Although a circuit court of appeals (seventh circuit) has approved the Board's decision, I understand a new case is now before the NLRB on this very point.

Let me again refer to the famous Burt case in Akron. When it is known that Burt products are to go into a job, the Sheet Metal Workers Union advises it will dispatch no sheet metal workers to the job site if Burt products are there. There is an inducement by the union of employees not to work, but the action is not illegal, because the employees are not at work when so induced. Because they are not "in the course of their employment," there is no illegal boycott. The effect, however, is the same.

SECONDARY CONSUMER BOYCOTTS

Another type of economic pressure not covered by the present language of Taft-Hartley's section 8 (b) (4) is the secondary consumer or customer boycott.

A union can apparently picket the customer entrances of a retail store which is carrying a product manufactured by a company with which a union has a primary dispute. Similarly a union can organize a consumer or customer boycott against a soft drink distributing company merely because that company advertises on a radio or television station or in a newspaper with which the union has a primary dispute. These are examples of secondary customer or consumer boycotts. They are a potent form of economic pressure and are intended to be made unlawful by the language of my amendment.

A current case involves station WKRG and WKRG–TV in Mobile, Ala. A union which lost an election immediately began picketing the stations, and also is attempting to bring economic pressure on sponsors who continue to advertise on the stations. They threatened the sponsors with loss of business.

Thus subsection (4) is designed to cure five of the major secondary boycott loopholes. Now, permit me to take up the remaining parts of the bill.

Section 8 (b) (4) (A): On line 4 of page 2, you will find subsection (A). It reads:

"It shall be an unfair labor practice for a labor organization or its agents—(4) to exert, attempt to exert, or threaten to exert (regardless of the provisions in any collective bargaining or other contract) against an employer, or employees of an employer, economic or any other type of coercion, by picketing or by any other means, where an object thereof is—

"(A) causing or attempting to cause any employer or self-employed person to join any labor or employer organization."

This is pretty much of a repeat of the present subsection (A) of the present law, except that it is simplified and except that the opening three words of the present law which read "(A) forcing or requiring" are changed in my bill to "causing or attempting to cause."

The purpose of this change is to insure the full effectuation of the legislative intent to eliminate secondary boycotts. Once the factor of unlawful coercion has been found, the intent of Congress is not to be frustrated because it might conceivably be said that the objective of the coercion was merely to induce or cause a certain course of action rather than to force or require it.

There is no other change in the meaning or interpretation of (A).

Section 8 (b) (4) (B): Subsection (B) on line 7 of page 2, like subsection (4) is the heart of the amendment. It attempts to close three secondary boycott loopholes. It would read:

"It shall be an unfair labor practice for a labor organization or its agents—(4) to exert, attempt to exert, or threaten to exert (regardless of the provisions in any collective bargaining or other contract) against an employer, or employees of an employer, economic or any other type of coercion, by picketing or by any other means, where an object thereof is—

"(B) causing or attempting to cause an employer or other person to cease doing business with any other person."

Again the words "causing or attempting to cause" are substituted for the present Taft-Hartley language which introduces each subsection, "forcing or requiring."

DEFINITION LOOPHOLE

Note the use of the word "person" in subsection (B). It is a substitute for the phrase "employees of any employer." This is designed to halt the NLRB's interpretation of the present act permitting secondary boycotts to be used on agricultural workers, railroad employees, independent contractors, and the employees of political subdivisions of the State.

The NLRB permits such secondary boycotts when it contends that the words "employee" and "employer" are limited in their meaning to the technical definition of these words found in section 2 of the present act. Section 2 excludes from Taft-Hartley railroad and agricultural workers, independent contractors and the employees of city, county, and State governments.

This exclusion was intended by Congress to bar the NLRB from regulating the labor relations of these employees. It did not intend to exclude such employees from being used as secondary boycott tools.

The United States Fifth Circuit Court of Appeals has twice affirmed this view and ordered the NLRB to halt secondary boycotts involving railroad employees.

In the International Rice Milling case of 1951 and in the more recent W. T. Smith Lumber Co. case involving employees of the L. & N. Railroad, the woodworkers union sought to prevent L. & N. employees from serving the Smith Lumber Co., because of a dispute the woodworkers had with Smith.

The Labor Board acknowledges the fifth circuit's view only in the geographic areas within the court's jurisdiction. In other areas, the Board refuses to halt such secondary boycotts.

EMPLOYER PRESSURE

Subsection (B) also covers the "pressure upon employers" loophole in the present law, as explained in my reference to subsection (4). Note that subsection (B) refers to "cause an employer" to cease doing business. This strengthens the attempt to close this particular loophole.

AMBULATORY PICKETING

Another major dodge of the boycott prohibitions in Taft-Hartley is the use of ambulatory or roving situs picketing. This technique generally involves pickets following a truck of the primary employer and picketing the truck when it stops to make a delivery. The effect is economic pressure or loss to the neutral secondary employer and his employees. In the 1949 Schultz Refrigerated Service Co. case, the NLRB found such boycott activity beyond the scope of Taft-Hartley. The theory was that the truck was an extension of the primary employer's premises.

Although the NLRB in more recent cases has since limited the broad holding of its Schultz decision, legislation is necessary to remove all doubt as to the intent of Congress to halt secondary boycotts.

I believe the present law, if properly interpreted, adequately covers ambulatory picketing as an illegal secondary boycott. But to remove all doubt and prohibit such boycotts where neutrals are concerned, the word "person" in subsection (B) is used.

It will be noted that the phrase "cease doing business with" is used in place of the somewhat more elaborate wording in the Taft-Hartley Act. The change is for purposes of simplification and clarity only. It is not intended to suggest a more restrictive application.

Section 8 (b) (4) (C): This section at line 10 on page 2 of the amendment is virtually identical to section 8 (b) (4) (B) of the present law. The only change is the substitution of the introductory words "causing or attempting to cause" for the present "forcing or requiring."

I believe its language is self-explanatory in that it makes it an unfair labor practice for a union to cause an employer to recognize or bargain with a union unless that union has been certified as the legal bargaining agent for the employees.

RECOGNITION PICKETING

Section 8 (b) (4) (D): This new section at line 15, page 2, would read:

"It shall be an unfair labor practice for a labor organization or its agents (4) to exert, attempt to exert, or threaten to exert (regardless of the provisions in any collective bargaining or other contract) against an employer, or employees of an employer, economic or any other type of coercion, by picketing or by any other means, where an object thereof is—

"(D) causing or attempting to cause any employer to interfere with his employees' right to join or refrain from joining a labor organization as set forth in section 7."

This new section in my amendment is aimed at stopping recognition picketing. The language is not found in the present Taft-Hartley boycott section. It is designed to prohibit union officials from forcing an employer, via economic pressure on his business, to interfere with his employees' right to join or refrain from joining a union. This, of course, is the cornerstone of both the Wagner and Taft-Hartley Acts.

It follows that, if a union has the power to compel an employer to recognize it as the bargaining agent, the employees of that employer will be forced to be represented by that union, whether they prefer that particular union or no union.

Neither a company nor a union should have the power to force a bargaining agent upon employees unless the employees want such an agent. Again it follows that an employer should be free from such economic coercion as the secondary boycott to compel him to interfere with the rights of his employees.

ORGANIZATIONAL PICKETING

Section 8 (b) (4) (E): This also is a new section. It is found at line 19, page 2, of the amendment. It is designed to halt organizational picketing, and it would read:

"It shall be an unfair labor practice for a labor organization or its agents (4) to exert, attempt to exert, or threaten to exert (regardless of the provisions in any collective bargaining or other contract against an employer, or employees of an employer, economic or any other type of coercion, by picketing or by any other means, where an object thereof is—

"(E) causing or attempting to cause employees to join or refuse to join a labor organization except as provided in the first proviso to section 8 (a) (3)."

The purpose of this section (E) is to prohibit the use of economic coercion against an employer where an object is the causing of employees to join or refuse to join a labor organization. It does not interfere with the right to negotiate a union shop contract.

The present law provides means for unions to organize employees and it provides for elections to determine union representation. Picketing should not be used as a replacement for the already prescribed procedures.

In theory there is a hairline difference between recognition and organizational picketing, but the practical effect is the same. The picket line is present in both varieties.

Here again organizational picketing, like recognition picketing, is closely related to the secondary boycott; thus, its inclusion in the amendment.

If a union fails to persuade employees to join its organization, it may place a picket line before the employer's place of business so as to bring pressure upon the employer to coerce his employees to join that union. This picket line can be the foundation for a secondary boycott, and, in many instances, the picket line will be extended to the premises of neutral secondary employers.

JURISDICTIONAL DISPUTES

Section 8 (b) (4) (F): This section, beginning at line 22 on page 2 is, except for the first three words, exactly the same as that contained in section 8 (b) (4) (D) of the Taft-Hartley Act. This is in line with the same changes made in the other sections.

INJUNCTIONS

Paragraph (b), line 12, page 3: Lines 12 through 20 on page 3 merely bring the present section 10 (1) of Taft-Hartley—the injunction section—into conformity with the changes and new unfair labor practice sections of the amendment. There is no change in the basic principles of section 10 (1) providing for NLRB priority status for secondary boycott charges and for injunctions to halt secondary boycotts.

DAMAGE SUITS

Paragraph (c), line 21, page 3: Line 21 on page 3 through line 5 on page 4 brings the present section 303 (b) of title III of Taft-Hartley into conformity with the changes and new unfair labor practice sections of the amendment. Section 303 (b) is the section which provides for damages resulting from secondary boycott violations of section 8 (b) (4). My amendment makes no changes in the principles set out in the present section 303 (b) of the act.

My amendment relating to secondary boycotts was not intended to, and does not, change existing law so far as struck work is concerned. Under existing law if a recognized or certified union is engaged in a strike against an employer, and that employer proceeds to make arrangements with another employer to have such other employer perform for him the work which his employees would have performed, and the second employer aware of these facts performs the work, the picketing by the union of the second employer is not a secondary boycott. Under those circumstances the second employer is an ally of the struck employer and is not a neutral. *Douds* v. *Metropolitan Federation of Architects* (75 F. Supp. 672 (S. D. N. Y.)); *NLRB* v. *Business Machines and Office Appliance Mechanics* (228 F. (2d) 553 (C. C. A. 2) cert. den. 351 U. S. 962).

On the other hand, if the customer makes the arrangements for having the work performed by the second employer, the picketing of the second employer both under existing law and under my amendment, is a secondary boycott. Surely a completely independent person, who may need supplies to complete articles he is manufacturing, should have a right to make his own arrangements to get them from a second employer without harassment if the first employer is being struck. Existing law and my amendment also make it unlawful to picket a second employer who is simply continuing his normal relationship with the struck employer, performing no work in excess of or of a

different kind than that performed before the strike. (*Metal Polishers Union* (25 LRRM 1052)).

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah [Mr. WATKINS].

Mr. IVES. Mr. President, I should like to suggest the absence of a quorum, inasmuch as I am about to offer an amendment in the nature of a substitute for the pending amendment. I think it would be a good idea to have as many Senators as possible present to listen to the discussion. We are faced with a very fundamental question, and I think Senators should know what is going on. We are dealing with a very vital part of the Taft-Hartley Act, a very vital element in connection with labor relations. Therefore, if I may do so without losing my right to the floor, I ask the privilege of suggesting the absence of a quorum.

The PRESIDING OFFICER. Without objection, the Senator may suggest the absence of a quorum without losing the floor.

Mr. IVES. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Aiken	Green	Morse
Allott	Hayden	Morton
Anderson	Hennings	Mundt
Barrett	Hickenlooper	Murray
Beall	Hill	Neuberger
Bible	Hoblitzell	O'Mahoney
Bricker	Holland	Pastore
Bridges	Hruska	Payne
Bush	Humphrey	Potter
Butler	Ives	Proxmire
Byrd	Jackson	Purtell
Capehart	Javits	Revercomb
Carlson	Jenner	Robertson
Carroll	Johnson, Tex.	Russell
Case, N. J.	Johnston, S. C.	Schoeppel
Case, S. Dak.	Jordan	Smathers
Chavez	Kefauver	Smith, Maine
Church	Kennedy	Smith, N. J.
Clark	Kerr	Sparkman
Cooper	Knowland	Stennis
Cotton	Kuchel	Symington
Curtis	Lausche	Talmadge
Dirksen	Long	Thurmond
Douglas	Magnuson	Thye
Dworshak	Malone	Watkins
Eastland	Mansfield	Wiley
Ellender	Martin, Iowa	Williams
Ervin	Martin, Pa.	Yarborough
Frear	McClellan	Young
Fulbright	McNamara	
Goldwater	Monroney	

Mr. MANSFIELD. I announce that the Senator from Tennessee [Mr. GORE] is absent on official business.

Mr. DIRKSEN. I announce that the Senator from Utah [Mr. BENNETT], the Senator from Vermont [Mr. FLANDERS], and the Senator from Massachusetts [Mr. SALTONSTALL] are necessarily absent.

The Senator from North Dakota [Mr. LANGER] is absent on official business.

The PRESIDING OFFICER. A quorum is present. The Senator from New York has the floor.

Mr. IVES. Mr. President, I wish the Senator from Utah, who is the author and sponsor of the pending amendment, were on the floor while I am speaking. It so happens that he and I for a number of years have been dealing with this particular subject of the "no man's land." It also happens that I myself am just as much interested in having the question resolved as is the Senator from Utah. Perhaps I am more interested. At least, I am the one who introduced the first bill on the subject.

It also happens that, so far as the interim report of the select committee is concerned, from which a quotation has been read in the debate, I myself wrote the recommendation in that report concerning the "no man's land." I wrote in longhand the part which has been quoted from the report. I shall read it now, because it has been quoted only partly. It is the last sentence. This is the actual recommendation:

> To solve the no man's land problem, therefore, it is recommended that the NLRB should exercise its jurisdiction to the greatest extent practicable, and, further, that any State or Territory should be authorized to assume and assert jurisdiction over labor disputes over which the Board declines jurisdiction.

In that connection, I point out something about the amendment which the Senator from Utah has offered. I shall read the language of his amendment. It is short. It can be seen exactly what it does and how it fits into the recommendation made in the report of the select committee:

> Nothing in this act shall be deemed to prevent or bar any agency, or the courts, of any State or Territory from assuming and asserting jurisdiction over labor disputes over which the Board by rule or otherwise has declined to assert jurisdiction.

That amendment, as the Senator from Utah has proposed it, deals with only a part of the recommendations of the committee. It deals with the last part. The Senator has nothing whatever in the amendment which touches on the first part, which calls for the NLRB to exercise its jurisdiction to the greatest extent practicable.

That is particularly serious when we realize that in proposing the amendment he is striking out what is in the bill itself. I myself do not wholly approve of what is in the bill. It is not so strong as I would like it to be. It does not do what I would like it to do. That is why I am offering a substitute amendment. In other words, I am dealing with the question in the bill as I would deal with the question if I were in the committee. The proposal in the bill, section 602, at the bottom of page 36, it will be noted, is a little vague. It does not authorize the Board to do anything. Theoretically, it calls upon the Board to do as much as it can. But the question of how far the Board will be able to go is left to the Board's discretion.

I like language a little stronger than that, and I think we are obligated to provide something stronger than that. That is why I am offering this substitute.

Mr. CURTIS. Mr. President, will the Senator from New York yield for a question?

The PRESIDING OFFICER (Mr. CHURCH in the chair). Does the Senator from New York yield to the Senator from Nebraska?

Mr. IVES. I yield.

Mr. CURTIS. What does the Senator's amendment do with reference to——

Mr. IVES. I have not yet offered the amendment; but I shall do so in a moment or two, and then the Senator from Nebraska will know what I am talking about.

Mr. CURTIS. Very well.

Mr. IVES. I am about to offer the amendment. I appreciate the courtesy of the Senator in bringing that point to my attention.

Mr. President, I was explaining the background of the amendment submitted by the Senator from Utah [Mr. WATKINS] and the history of the Senate bills which deal with this question. I want that to be clear, so it is understood that I am in sympathy with what the Senator from Utah is endeavoring to do, although I do not approve of the way he is attempting to do it.

Mr. President, at this time I submit the amendment, send it to the desk, and ask that it be stated.

The PRESIDING OFFICER. The amendment submitted by the Senator from New York will be stated.

The LEGISLATIVE CLERK. In lieu of the language proposed to be inserted by the amendment of Mr. WATKINS, it is proposed to insert the following:

> SEC. 602 (a). Section 14 of the National Labor Relations Act, as amended, is amended by adding a new subsection, as follows:
>
> "(c) The National Labor Relations Board shall adopt, by regulation or policy, standards asserting jurisdiction over all labor disputes arising under the National Labor Relations Act, as amended: *Provided*, That the Board is empowered by agreement with any agency of any State of Territory to cede to such agency jurisdiction over any cases in any industry (other than mining, manufacturing, communications, and transportation except where predominantly local in character) even though such cases may involve labor disputes affecting commerce, unless the provision of the State or Territorial statute applicable to the determination of such cases by such agency is inconsistent with the corresponding provision of this act or has received a construction inconsistent therewith."
>
> SEC. 602 (b). Amend section 10 (a) of the National Labor Relations Act, as amended, by repealing the proviso thereto.

Mr. IVES. Mr. President, let me describe what this amendment will do.

First, it will fill the gap left by the amendment of the Senator from Utah [Mr. WATKINS], for it calls upon the Board itself to meet all the requirements which it should meet as a Board in dealing with these matters. In other words, the Board must assert, 100 percent, jurisdiction. Under the provisions of the amendment, there will be no question whatever about this matter. All of the shady or shadowy or vague language now contained in the bill will be eliminated; this amendment will repeal or eliminate all of that language, as the amendment of the Senator from Utah itself would do. This amendment is a substitute for the amendment of the Senator from Utah.

Mr. MORSE. Mr. President, will the Senator from New York yield for a question?

Mr. IVES. I yield.

Mr. MORSE. Does the Senator from New York share my opinion that the McClellan hearings and some of the testimony adduced before our committee show that in this so-called no man's land there is an area in which there are many shady dealings, too; and that in this area there are found some of the so-called sweetheart dealings and some of the Shefferman dealings and some of the corruption on which we are trying to place a check, by means of the pending legislation; and that we shall not rectify that situation by adopting an amendment of the type of the one submitted by the Senator from Utah, but that we shall rectify it only by means of an amendment like the one the Senator from New York has submitted?

Mr. IVES. Of course, I recognize that in New York, for example, much racketeering of that sort exists. We must deal with it, and we must eliminate it. The first part of the amendment deals with that question.

In the second part of the amendment—that in regard to turning over to the States, and so forth, the authority to act in these matters—the language which follows the proviso is exactly the language of the proviso in section 109 as it now stands; there is no difference whatever.

Therefore, the question which has been raised here, namely, as to the effect or result of the amendment of the Senator from Utah, if it were enacted into law, is eliminated. In other words, if a company has plants in, let us say, half a dozen or eight States—which is not at all unusual in the case of some of the large companies—and if each of those 8 States has a law which deals with this question, but which is very different from any other law, no confusion will develop, because the provision of the Taft-Hartley law which is being repealed and replaced requires the cession of jurisdiction over any cases in any industry as to which cession can be made, even though such cases may involve labor disputes affecting commerce, unless the provision of the State or Territorial statute applicable to the determination of such cases by such agency is inconsistent with the corresponding provision of this act—that is to say, of the Taft-Hartley Act—or has received a construction inconsistent therewith.

In other words, the cession of jurisdiction must be to agencies which are operating under laws which in this particular instance deal with the particular subjects involved, and are identical with or closely enough identified with the Taft-Hartley Act so there will be no substantial difference. That provision will eliminate the problem the Senator from Kentucky has suggested as to many different interpretations.

Mr. BUTLER. Mr. President, will the Senator from New York yield to me?

Mr. IVES. I yield.

Mr. BUTLER. Does that mean that the Board will initially take jurisdiction of every case covered by the National Labor Relations Act?

Mr. IVES. Yes; if it relates to or involves interstate commerce.

Mr. BUTLER. Of course, that is understood. So, under this amendment, the Board will either decide the case or will refer it to a State agency; is that correct?

Mr. IVES. It will have to do that. If the State does not have any laws in this field which the agency could follow, of course the case could not very well be referred to such a State agency.

Mr. BUTLER. I understand.

The first sentence of the amendment is as follows: "The National Labor Relations Board shall adopt, by regulation or policy," and so forth.

How would the Senator from New York go about adopting something by policy? What is the meaning of the word "policy" in that connection? Does it mean a policy established by a line of decisions which might change at any time? Does not the Senator from New York want something more substantial or definite than that? Why does not he use the words "by regulation"?

Mr. IVES. As I understand, it could not change in any way because it is the procedure that has been followed right along.

Mr. BUTLER. If the purpose of the amendment is to have the Board take jurisdiction in all cases, why does not the Senator from New York either by rule or by regulation specify the type of cases in the amendment itself, rather than have the matter determined or controlled by a policy which might shift from day to day? Why not have the law provide a certainty, rather than have the Board continue to do what it is doing now?

Mr. IVES. It seems to me that under this amendment there will be certainty.

Mr. BUTLER. I do not believe there will be certainty if the words "regulation or policy" are used. What does the Senator from New York mean by "policy"?

Mr. IVES. Of course, all cases affecting commerce are covered by this.

Mr. BUTLER. Of course that is true.

Mr. IVES. And the court decisions will have to determine the policy, under the Board's decisions, regardless of whether jurisdiction is ceded.

Mr. BUTLER. Yes; but the Board could adopt one policy today in connection with one case and another policy tomorrow in connection with a similar case. There would be no certainty. In other words, nobody would know where he was going when he initiated a case.

Mr. IVES. Would it make it any simpler to the Senator from Maryland if I omitted the words "or policy"?

Mr. BUTLER. I think it would.

Mr. IVES. Mr. President, I modify my amendment by eliminating the two words "or policy," and striking out the comma before the word "by" and the comma following the word "policy."

Mr. BUTLER. I may say to the Senator from New York one of the reasons I made the suggestion is that the present Supreme Court does not seem to be too astute in interpreting what the Congress means. If the words "or policy" were used, I think we would be laying ourselves open to criticism.

Mr. IVES. I think the Senator's suggestion is well made. I am thankful to him.

Mr. President, the question may be raised that the Board cannot handle this many cases. I do not know, in the first instance, that the Board can handle this many cases. I tried my best in all the hearings I attended—and I attended them when the Board Chairman appeared and the counsel appeared before the Committee on Labor and Public Welfare and the subcommittee—to get from the representatives of the Board what they needed. They indicated to me that with an additional appropriation above what was allowed by the House of Representatives—I think it was $3 million—the Board could take on 20 percent more cases.

I asked the witnesses at that time whether the 20 percent would cover the "no man's land" cases. They did not know how many cases were in the "no man's land" area. In other words, I discovered, on inquiry, that nobody in the United States, apparently, has any idea what the load of "no man's land" cases is, how many cases would fall within that description, the area it would cover, or anything about it. They did not know.

If this amendment is adopted, it will not take the Board very long to find out. It will not take us very long to ascertain whether the Board is able, with this additional appropriation, to handle all the cases.

By the way, I should like to say the appropriation referred to is not merely a happy thought. The Appropriations Subcommittee dealing with the question has already approved it. There is provided $1½ million above the budget estimate, $13,100,000. I think we can hold that increase, because I believe the country realizes, and I think we can get the House of Representatives to realize—I am sure the House will—that the amount is absolutely necessary. We have to have a vital agency that can do the job it is supposed to do, and the failure to do it is raising Cain in our economy.

I am not disturbed about that feature of the question. I think this is the proper way to approach it. I originally was not for that idea. I was for the approach the Senator from Utah is espousing. That approach would be more satisfactory to the people of the State of New York than would the approach I am here proposing; but I am not in the Senate to participate in enacting legislation only for one State. I want to get something in the law which will work for the whole country, and I believe my amendment will do that. If the State of New York is not benefited as much by this approach as it would be by the other approach, it is too bad. Ultimately, all the States will be benefited by this kind of approach and will be satisfied with it. That is the position I am taking on the question.

So I urge the Senate to approve the substitute to the amendment offered by the Senator from Utah.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. IVES. I yield.

Mr. KENNEDY. I think the amendment the Senator from New York has offered as a substitute for the amendment of the Senator from Utah is pref-

erable to the provision in the bill. I think the Senate should be appreciative to the Senator from Utah for bringing the amendment forth. I believe the provision suggested by the Senator from New York is a better provision for the "no man's land" cases. I hope the Senate will adopt it.

Mr. CASE of South Dakota. Mr. President, will the Senator yield?

Mr. IVES. I yield.

Mr. CASE of South Dakota. I have read the amendment at the desk. I think it is an improvement over the language in the bill, but there is one question in my mind. I refer to a State which may not have an agency with which an agreement could be made to take jurisdiction, under the proposal.

Mr. IVES. We are in that condition now. That is why I am saying the State of New York would much prefer the amendment proposed by the Senator from Utah, because New York still operates under the Little Wagner Act. We do not have the Taft-Hartley Act in New York State. Our people in New York State, particularly our labor people, would much prefer the one we have.

Mr. CASE of South Dakota. I had the privilege of addressing the New York State Bar Association at the time they were working on the Little Wagner Act.

Mr. IVES. That was in 1937.

Mr. CASE of South Dakota. The Senator from New York recalls that. I think the experience in New York State with that law has been good, but some States do not have that kind of statute. We do not have it in my State.

Mr. IVES. In other words, the State of the Senator from South Dakota and my own State could not take advantage of this proposal.

Mr. CASE of South Dakota. They could not?

Mr. IVES. No.

Mr. CASE of South Dakota. The responsibility would still rest with the——

Mr. IVES. With the National Labor Relations Board, and it would be forced to act. If the Board wants to state that it cannot take all the case, let it come to Congress and say so, and then the Congress can pass the kind of bill it should pass dealing with this question, and it would have information on which to act. Now we do not have the information. I have learned that much in the time I have been studying the problem.

Mr. CASE of South Dakota. With reference to the statement of the Senator about the illogical position of asking the Board to take a load when it does not have adequate personnel, I should like to give the figures on the personnel of the Board.

In 1949 the National Labor Relations Board asked for 2,282 employees. It received appropriations for 1,698. That was just 2 under 1,700.

The next year the appropriations permitted the employment of 1,462 employees. That was the Budget recommendation. Actually the appropriation was for a lesser number.

The next year the number decreased to 1,408.

The next year the number was 1,466.

The next year the number was 1,475.

In 1954 the number dropped to 1,391. That was with the allowance made by the President under the Truman provision. The actual appropriation was for somewhat less than that number.

The next year the number of employees dropped from 1,391 to 1,198.

The next year the number dropped to 1,138.

The next year the number was 1,295.

In 1958 the number dropped to 1,137.

For 1959 the figure is 1,182.

The number of personnel has dropped from 1,698—practically 1,700—to 1,182, a decrease of over 500 employees in the space of 10 years, or a drop of one-third.

Mr. IVES. Some of the reduction may have been justified.

Mr. CASE of South Dakota. Some of it may have been justified, but obviously it would be impossible for 1,182 employees to do as much as 1,700 employees, and that should not be expected.

Mr. IVES. I thank the Senator for his comments on this matter and for the figures he has given us. They are very pertinent.

It would appear offhand, from looking at the situation, that Congress had been pennywise and pound foolish in dealing with the NLRB. However, when I have been criticized because Congress has not provided sufficient money for this important agency, I have always taken the side of the Congress, although I think the importance of this matter is too little understood by the Members of Congress. That is not surprising. This is a rather technical field. It is a field in which comparatively few States engage in any great activity.

New York happens to be the largest State industrially. Naturally this is a problem on our doorstep, and we know more about it. I do not know why many States should know much about the problem, and I can understand why there are such feelings about it. Some of the Members of Congress share the feelings, because they do not have much industry in their home Districts. We have a very hard time explaining the matter.

That does not alter the fact that this question relates to a vital part of our economy and we are taking a great chance in letting it go the way it is going.

Mr. BUTLER. Mr. President, will the Senator yield?

Mr. IVES. I yield.

Mr. BUTLER. The Senator has heretofore said it is the purpose of his amendment to have the National Labor Relations Board assume jurisdiction over every case arising under the National Labor Relations Act. If that be the case, would the Senator object to an amendment which would specifically so state, followed by language such as he uses, with the proviso that within 60 days after the passage of the act rules, regulations, and standards shall be promulgated as to the cases over which the Board shall entertain jurisdiction and the cases which the Board shall refer?

I wish to be perfectly certain that the Board assumes jurisdiction over all cases—that the action be compulsory, and either the Board must decide the cases or the Board must have standards, by rules and regulations, for referring the cases to the proper State authority.

Mr. IVES. I think the Senator from Maryland has a good idea, but I do not think we would be allowing enough time.

Mr. ALLOTT. Mr. President, will the Senator yield?

Mr. IVES. I yield to the Senator from Colorado.

Mr. ALLOTT. I should like to address myself to the substitute amendment of the Senator from New York. I believe there is more than one way to approach this matter. Certainly, so far as I am concerned, my mind at this moment is not fixed in the belief that we have to approach it in any particular way.

I think the remarks of the Senator from Maryland are very, very good. There is no question in my mind that as the substitute is written all it requires is the setting up of standards for accepting all cases. I think the Board should accept all cases, and the ones which are not handled by the Board ought to be sent back to the States.

Mr. IVES. The Board would not send anything back, unless the conditions were provided.

Mr. ALLOTT. Standards would not be needed if the Board is to take all cases. If the Board is to take jurisdiction of all cases, then standards are not needed.

Mr. IVES. I think that would have to be determined from the court decisions. In other words, some of the actions depend upon the court decisions.

Mr. ALLOTT. For myself, I suggest the amendment would not be of benefit in the situation. As a matter of fact, if the amendment is adopted, the situation may be left in a more chaotic state than at present.

Mr. IVES. It could not be worse than now, because now there is nothing.

Mr. ALLOTT. All that would be required is the setting up of standards for the taking of jurisdiction in all cases, but the Board would not have to take jurisdiction in all cases.

Perhaps those who are working on this proposal can come up with perfecting language to remedy the situation.

Mr. IVES. I think that is what we are working on now.

The PRESIDING OFFICER. The Senator from New York has the floor.

Mr. IVES. Mr. President, I should like to have the Senator from Oregon [Mr. MORSE] present while we are discussing this amendment. We are trying to find language which will be satisfactory.

Mr. LAUSCHE. Mr. President, will the Senator yield?

Mr. IVES. I yield.

Mr. LAUSCHE. I should like to have a bit of explanation about the final clause in the amendment which says that an agreement may be made with State agencies for the disposition of a dispute, and in closing reads, "unless the provision of the State or Territorial statute applicable to the determination of such cases by such agency is inconsistent with the corresponding provision of this act or has received a construction inconsistent therewith."

What is envisioned to be covered by that language?

Mr. IVES. Let me answer the Senator by saying that is exactly what is contained in section 10 (a) of the Taft-Hartley Act. We are repealing that part of the Taft-Hartley Act and transferring it. That is the proviso in section 10 (a) of the Taft-Hartley Act. There is no change at all in the way things are at the moment.

Mr. LAUSCHE. Would this clause require that the agreement be made only in those instances when under Territorial or State statutes there would be an ability to adjudicate the dispute in accordance with the Federal laws?

Mr. IVES. Yes; in accordance with the standards. It would be substantially the same. That is the whole idea.

Mr. LAUSCHE. The clause provides that if the State or Territorial statute is inconsistent with or has been given a construction which is inconsistent with the Federal laws the agreement could not be made?

Mr. IVES. The Senator is correct. It must be pertinent to this particular language.

Mr. LAUSCHE. Yes.

Mr. BUTLER. Mr. President, will the Senator yield?

Mr. IVES. I yield.

Mr. BUTLER. Will the Senator agree to amend his amendment so that it will read:

The National Labor Relations Board shall assert jurisdiction over all labor disputes arising under the National Labor Relations Act, as amended:

And follow that with the proviso in the present amendment?

Mr. IVES. Yes; I will accept that. Is that agreeable to the chairman of the subcommittee?

Mr. KENNEDY. Yes; it is agreeable.

Mr. BUTLER. Is that agreeable to the Senator from Utah?

The PRESIDING OFFICER (Mr. CHURCH in the chair). Does the Senator from New York wish to modify his amendment?

Mr. IVES. Mr. President, I so modify my amendment.

The PRESIDING OFFICER. The Senator has a right to modify his own amendment.

Mr. LAUSCHE. Mr. President, will the Senator yield?

Mr. IVES. I yield.

Mr. LAUSCHE. In the event the Board finds that under the State or Territorial statutes it could not make an agreement, what would be the status of the proceeding in view of the change which has been made in the language which now provides that the Board shall assert jurisdiction?

Mr. IVES. That was the kind of language I intended to use. The situation would be simply this: The National Labor Relations Board itself would have to assume jurisdiction. This is the important thing: If the National Labor Relations Board cannot assume jurisdiction, it will have to explain to the Congress the reason why it cannot, so we can enact legislation which will permit that area to be covered. That will be the no man's land.

Mr. LAUSCHE. To begin with, the Board must take jurisdiction.

Mr. IVES. It must take jurisdiction.

Mr. LAUSCHE. In certain cases it can make an agreement to transfer the adjudication to a State agency.

Mr. IVES. Yes.

Mr. LAUSCHE. But if, under the circumstances, it finds that it cannot transfer it to a State agency, it must pursue its jurisdiction to the end and dispose of the case.

Mr. IVES. That is correct. That is the whole intent.

The PRESIDING OFFICER. The question is on agreeing to the modified amendment offered by the Senator from New York [Mr. IVES] in the nature of a substitute for the amendment offered by the Senator from Utah [Mr. WATKINS]. The modified amendment in the nature of a substitute will be stated.

The LEGISLATIVE CLERK. In lieu of the language of the the Watkins amendment, it is proposed to insert the following:

SEC. 602 (a). Section 14 of the National Labor Relations Act, as amended, is amended by adding a new subsection as follows:

"(c) The National Labor Relations Board shall assert jurisdiction over all labor disputes arising under the National Labor Relations Act, as amended: *Provided*, That the board is empowered by agreement with any agency of any State or Territory to cede to such agency jurisdiction over any cases in any industry (other than mining, manufacturing, communications, and transportation, except where predominantly local in character) even though such cases may involve labor disputes affecting commerce, unless the provision of the State or Territorial statute applicable to the determination of such cases by such agency is inconsistent with the corresponding provision of this act, or has received a construction inconsistent therewith."

SEC. 602 (b). Amend section 10 (a) of the National Labor Relations Act, as amended, by repealing the proviso thereto.

Mr. KNOWLAND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Aiken	Green	Morse
Allott	Hayden	Morton
Anderson	Hennings	Mundt
Barrett	Hickenlooper	Murray
Beall	Hill	Neuberger
Bible	Hoblitzell	O'Mahoney
Bricker	Holland	Pastore
Bridges	Hruska	Payne
Bush	Humphrey	Potter
Butler	Ives	Proxmire
Byrd	Jackson	Purtell
Capehart	Javits	Revercomb
Carlson	Jenner	Robertson
Carroll	Johnson, Tex.	Russell
Case, N. J.	Johnston, S. C.	Schoeppel
Case, S. Dak.	Jordan	Smathers
Chavez	Kefauver	Smith, Maine
Church	Kennedy	Smith, N. J.
Clark	Kerr	Sparkman
Cooper	Knowland	Stennis
Cotton	Kuchel	Symington
Curtis	Lausche	Talmadge
Dirksen	Long	Thurmond
Douglas	Magnuson	Thye
Dworshak	Malone	Watkins
Eastland	Mansfield	Wiley
Ellender	Martin, Iowa	Williams
Ervin	Martin, Pa.	Yarborough
Frear	McClellan	Young
Fulbright	McNamara	
Goldwater	Monroney	

The PRESIDING OFFICER. A quorum is present.

SEVERAL SENATORS. Vote! Vote!

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from New York [Mr. IVES], as modified, in the nature of a substitute for the amendment offered by the Senator from Utah [Mr. WATKINS].

Mr. KNOWLAND. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. WATKINS. Mr. President, after the debate which followed the offering of my amendment, I was called on the long distance telephone, and, as a result, I have not had an opportunity to scrutinize to any extent the substitute offered by the Senator from New York. If I get the significance of it, it is apparently an effort to make the operations under the Taft-Hartley Act completely and 100 percent Federal. In my judgment, that would deprive States of opportunities for cooperation with the Federal Government in those cases in which the activities are largely intrastate, as distinguished from interstate. The amendment is not printed, and I have not had an opportunity to study it. It was offered after debate had started on my amendment.

Mr. IVES. Mr. President, will the Senator yield, with the understanding that he will not lose the floor?

Mr. WATKINS. Yes. However, I am not desirous of making any further speech on the subject. We have already had more than 2½ hours of debate on the amendment. We have about exhausted all that can be said on the subject.

Mr. IVES. I should like to point out a thing or two, nevertheless. The interim report, to which the Senator has referred and from which he has quoted, contains a recommendation on the so-called no man's land. That recommendation was written by me. As I remember, I wrote it largely in longhand myself.

Mr. REVERCOMB. Mr. President, will the Senator speak louder?

Mr. IVES. I am putting a terrible strain on my vocal chords.

Mr. JOHNSON of Texas. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. IVES. The recommendation reads as follows:

It is recommended that the NLRB should exercise its jurisdiction to the greatest extent practicable—

That, I point out to my distinguished friend from Utah, is not considered in his amendment; his amendment completely ignores that point. Then follows the part that his amendment does cover:

and, further, that any State or Territory should be authorized to assume and assert jurisdiction over labor disputes over which the Board declines jurisdiction.

That is what the Senator covers in his amendment.

Mr. WATKINS. Yes.

Mr. IVES. The amendment I am proposing, in the first place, carries out the first part of that recommendation——

Mr. WATKINS. Let me interrupt the Senator at that point. I believe the amendment I proposed takes care of that, too, because it would be a practicable situation. If the Board declines jurisdiction, it would certainly be practicable for the State agency to come into the picture.

Mr. IVES. That is where the Senator and I differ completely. I believe we must bring this matter to a head by forcing the Board to take some action. I was not at all satisfied, in the hearings before the Committee on Appropriations and the Committee on Labor and Public Welfare with the answers given by members of the Board, including the Chairman and counsel, to the questions concerning this matter. The Senator from Utah and I fundamentally agree absolutely on this question. The Senator from Utah and I have introduced almost identical bills dealing with this subject.

Mr. WATKINS. I still stand by my position. I think the Senator from New York has changed his position.

Mr. IVES. Perhaps I have, for the time being. Perhaps I have learned a thing or two. That is why I have changed.

Mr. WATKINS. After listening to the Senator from New York, I conclude that my position was sound in the beginning, and that his was sound in the beginning.

Mr. IVES. I thought mine was; and I think mine ultimately may be. But I do not think we are proceeding in the right way. I think we should force the Board to act. Then, if the Board cannot act, or finds that it cannot do so, we will know about it. As the Senator from Utah himself knows, we have no idea of the extent of no man's land. Nobody in the United States knows. We do not know what it embraces; we do not know about the conditions. I asked questions about it at both committees. Nobody could answer them.

Mr. KNOWLAND. Mr. President, will the Senator yield, so that I may ask the Senator from New York a question?

Mr. WATKINS. I yield.

Mr. KNOWLAND. Does the senior Senator from New York believe that the NLRB should assume jurisdiction of every labor dispute in every little hamlet of the country?

Mr. IVES. I cannot imagine a labor dispute in every little hamlet in the country which would involve interstate commerce.

Mr. KNOWLAND. But throughout the country, and broadly and generally.

Mr. IVES. That is not the question with which we are dealing. We are dealing with no man's land. That involves areas where the Board will not take jurisdiction. It is not because it cannot; it simply will not assert jurisdiction. We are dealing with interstate commerce. The Board simply will not take jurisdiction.

Mr. WATKINS. The Senator from New York does not mean, does he, that the Board is violating the law?

Mr. IVES. No. I am trying to make it violate the law, if it wants to.

Mr. WATKINS. The case in Utah, which I was discussing, involved about $150,000 of activity within the State—wholly intrastate—and about $50,000 of transactions outside the State. The National Labor Relations Board refused to take jurisdiction in that case. It declined to do so. But under the ruling which was finally announced by the Supreme Court the State board could not assume jurisdiction. In other words, the National Labor Relations Board had full jurisdiction. That is what made the no man's land.

Mr. IVES. Suppose the reason the State could not assume jurisdiction was that its laws relating to the question were sufficiently different on this particular matter from the Taft-Hartley Act so that there was no resemblance at all.

Mr. WATKINS. I do not think that was the case.

Mr. IVES. If not, I cannot imagine what it would be.

Mr. WATKINS. The opinion states the reason clearly. I do not want to go into a long discussion of the opinion.

Mr. BUTLER. Mr. President, will the Senator yield?

Mr. WATKINS. I yield.

Mr. BUTLER. Is there any possibility that by this amendment Congress could establish any reasonable regulation of those cases which the State shall decide, rather than leave it to the Board? Could not that be provided in the law itself? The cases of national organizations operating in many States should come before the NLRB. Congress in its wisdom can certainly provide that a company employing very few people and whose business in interstate commerce represents only 1 or 2 percent of its total business shall go to the local agency.

Mr. WATKINS. That is, in effect, what the Board does; but it has done so in individual cases, rather than make a set of regulations.

Mr. BUTLER. But the Board has not done it by deciding cases. We want to make the Board find some way to decide the cases.

Mr. IVES. That is exactly the point.

Mr. BUTLER. If I have made any contribution at all, it was simply to perfect the Senator's amendment. I have not made up my mind how I shall vote on the question. I do not want to see the rights of the States invaded. I do not want to see the NLRB operating in every hamlet and town in America and taking jurisdiction of cases, when they clearly have no business to do so. But I want to see a resolution of this question. The only way it will ever be resolved is by writing something into the law about it.

Congress must act. The Supreme Court has said this is a matter of which Congress must take cognizance. Judge Leedom has said that the matter can be resolved only by Congress. The question is now before Congress. We shall have to decide the matter one way or the other.

My desire is to see the cases decided. I should like to see them decided at the local level when the cases are very small. I should like to have the cases of national organizations, whose business is large enough to affect interstate commerce, be within the jurisdiction of the NLRB, where they belong.

Mr. WATKINS. The judgment of those who have studied the matter, in the administration and other areas, is that the amendment I have offered will take care of that situation.

Mr. KUCHEL. Mr. President, will the Senator from Utah yield?

Mr. WATKINS. I should like to yield the floor.

Mr. KUCHEL. I wish to ask a question. Under the amendment offered by the Senator from Utah, when there is a labor dispute which affects interstate commerce, but as to which the National Labor Relations Board fails or neglects or refuses to assert jurisdiction, where does the aggrieved party have his day in court?

Mr. WATKINS. Under my amendment, he would not have his day in court, unless the National Labor Relations Board had declined jurisdiction. Then the States would take over. My amendment is in very plain language and carries out almost exactly the language of the report of the McClellan committee.

Mr. KUCHEL. If the National Labor Relations Board does not decline to take jurisdiction, but simply does not act, then do I correctly understand that under the amendment offered by the Senator from Utah a person who feels aggrieved has no remedy whatsoever?

Mr. WATKINS. He would probably go to the Federal court to see if he could get a mandamus to have the Board take the case or to make a decision one way or the other—to go ahead or to decline to take the case.

Mr. KUCHEL. Am I to gather from the Senator's answer that State agencies are not, then, empowered to sit in judgment upon the aggrieved person's complaint, under the Senator's amendment?

Mr. WATKINS. Not until the National Labor Relations Board has declined to accept jurisdiction. That is what the amendment says; that is what it means.

Mr. KUCHEL. Can the Senator from Utah tell me, as a matter of fact, what has been the action of the National Labor Relations Board historically? Has it declined to take some cases and merely failed to take action in other cases?

Mr. WATKINS. I think it has usually declined to take action. It did in the Guss case, which brought about my amendment.

I think the amendment offered by the Senator from New York will not fit the situation. It will have a tendency to put the National Labor Relations Board in control, and it could do so in every city and town in the United States that has businesses which are both in interstate and intrastate commerce and possibly in cases where the larger interest is within the State, but only incidentally interstate.

I am sure Congress does not want to take that position, because to do so would require the establishment of an agency so large and so costly, if it went into all these transactions and was compelled to take them, that it would become top-heavy and would not be at all efficient.

Agencies of this kind can be made too large for successful operations. That, I think, would be the case in this instance.

I urge the rejection of the amendment of the Senator from New York.

I yield the floor. The Senator from Colorado [Mr. ALLOTT], who is a member of the Committee on Labor and Public welfare, wishes to speak on the question.

Mr. ALLOTT. Mr. President, I should like to say what I hope will be, for me, the final word on this question. If the Supreme Court can decide, as it did in the Guss case, that an interstate business is not an interstate business, and can say that an interstate business is actually an intrastate business—and a long line of decisions along this course can be cited—then I must agree with the Senator from Utah. I believe that the proposed substitute would only pile confusion upon confusion. I believe it would not permit the immediate remedial process which would be available under the remedy proposed by the Senator from Utah.

Therefore, I hope the Senate will support the Watkins amendment, and not the proposal of the Senator from New York. Under the amendment offered by the Senator from New York, even though the National Labor Relations Board wanted to cede jurisdiction, a tremendous organization would have to be built up, and still it would probably never be able to cope with the situation; whereas under the Watkins amendment jurisdiction would be ceded back to the States only when the National Labor Relations Board refused to act.

This seems to me to be logical. It would not cut down their power one iota. It would not cut down the power of any employer or of any employee to call upon the National Labor Relations Board. It would result in a greatly expanded area in which both employers and employees could expect to obtain quick remedial action.

Mr. KUCHEL. Mr. President, will the Senator from Colorado yield for a question?

Mr. ALLOTT. I yield.

Mr. KUCHEL. In the Senator's opinion, is the difference between the two amendments mainly the difference between "declining to assert jurisdiction," on the one hand, and "ceding jurisdiction to the States," on the other? Is that what the difference amounts to?

Mr. ALLOTT. In one sense, I believe that is true; yes.

Mr. CURTIS. Mr. President, will the Senator from Colorado yield to me?

Mr. ALLOTT. Yes; if the Senator from Nebraska wishes to ask me a question.

Mr. CURTIS. I should like to make a brief observation.

Mr. ALLOTT. Very well; I yield.

Mr. CURTIS. Mr. President, I wish to commend the Senator from Colorado. I think something very basic is involved here, namely, the matter of States rights. Shall we go on and on vesting in Federal agencies jurisdiction over every transaction and the rights of everyone with the decisions to be made in Washington; or shall we adopt the amendment of the Senator from Utah and thus provide for an orderly process by means of which these matters can be determined in the States where they originate?

At the present time, such situations involving small business develop again and again; but the parties involved are unable to obtain Federal relief, and they cannot seek State relief. That situation should be cleared up.

In connection with this point, let me read from page 439 of the hearings, as follows:

> In *NLRB* v. *El Paso-Ysleta Bus Line, Inc.* (190 Fed. 2d 261), the company owned 13 buses which transported passengers between 2 towns in Texas, a distance of 12 miles. Federal jurisdiction was upheld because some passengers were employed by companies engaged in interstate commerce.

Mr. President, this evening the Senate has a chance to speak out against such centralization of government, and to assert that the States themselves have some rights to regulate local affairs.

So I shall support the amendment of the Senator from Utah [Mr. WATKINS], and I shall vote against the amendment of the Senator from New York [Mr. IVES].

Mr. ALLOTT. Mr. President, I yield the floor.

Mr. CURTIS obtained the floor.

Mr. IVES. Mr. President, will the Senator from Nebraska yield to me?

Mr. CURTIS. I yield.

Mr. IVES. I should like to ask the distinguished Senator from Nebraska a question: In his judgment, if the Watkins amendment were included in the law, as enacted, would any abuse such as the one which has been described be prevented? Or would not such possibilities of abuse still obtain in cases in which the Board had asserted jurisdiction?

Mr. CURTIS. I do not know what would be the effect in the particular case to which I have just referred, for it has already been decided. But in cases of that class, I believe there would be an opportunity to send them back to the States, where they belong, for decision.

Mr. President, I yield the floor.

Mr. KENNEDY. Mr. President, I rise to support the amendment which has been submitted by the Senator from New York [Mr. IVES].

It is true that the problem presented by the no man's land is a serious one.

In this case we have two alternative proposals. One is to encourage the National Labor Relations Board to cede to the 48 States, which have various conflicting or differing State laws as regards the matter of industrial relations, jurisdiction over areas in interstate commerce with the provisions of the Taft-Hartley Act should regulate. The State laws vary widely in their provisions. For instance, in some States, such as New York, there is provision for a closed shop. Under such statutes and under decisions based on those statutes, the closed shop could be held to apply even to interstate commerce matters, whereas the National Labor Relations Act forbids the closed shop.

So, in order to prevent such a situation, and to provide that the National Labor Relations Act shall be truly a national act, and shall control in matters which are national in character, and shall control them on a national basis, the amendment of the Senator from New York would compel the National Labor Relations Board to assume jurisdiction in all cases applying to interstate commerce. But the amendment does not provide that the Board shall assume jurisdiction over cases in intrastate commerce.

If the Taft-Hartley Act is a good act—and many of the present Members of the Senate were Members of the Senate at the time when that act was passed, and voted for it—it seems to me it should control in the case of matters in interstate commerce. Then the Federal law will provide remedies in regard to cases in interstate commerce, and the State laws will provide remedies in intrastate cases.

Mr. WATKINS. What would happen in cases which are both interstate and intrastate in character?

Mr. KENNEDY. Interstate cases would be regulated by the National Labor Relations Board.

Mr. WATKINS. But what about intrastate cases?

Mr. KENNEDY. They would be regulated by the State boards.

Mr. WATKINS. How about cases which are both interstate and intrastate in character.

Mr. CURTIS. Mr. President——

Mr. KENNEDY. I yield to the Senator from Nebraska.

Mr. CURTIS. I thank the Senator from Massachusetts.

I should like to ask a question of the distinguished Senator from New York [Mr. IVES]. His amendment has not been printed. Many Senators have grave misgivings about how far the Ives amendment would go in taking jurisdiction over these matters from the State and in centralizing power in the National Government.

So I should like to have the record show the purpose of the amendment of the Senator from New York. Is it the intent of his amendment in any way to nullify section 14 (b) of the Taft-Hartley Act, under which the States enact their right-to-work laws?

Mr. IVES. It is not; the amendment has no bearing whatever on that point. The amendment does encompass, however, 100 percent the no man's land.

Mr. AIKEN. Mr. President, it seems to me that we are getting a very good start toward arriving at an imperfect solution of an insoluble problem. [Laughter.]

I cannot say that I like either of the amendments which are proposed in this case. It seems to me that the amendment of the Senator from New York [Mr. IVES] would virtually direct the National Labor Relations Board to do the impossible, and I do not know that we wish to inflict such a burden upon the Board.

On the other hand, I do not see the real value of using this bill to impose upon the States the requirement of enforcing Federal laws.

It seems to me that the best interim solution to the problem is to reject both the Ives amendment and the Watkins amendment. Then the National Labor Relations Board will enforce this law to

the extent that the Congress, through its Appropriations Committees, enables the Board to do so. That is my position on this matter.

I had not intended to say anything at all on this bill; I had made that perfectly good resolution—which now is broken, although I hope it will be broken only once.

However, that would be my solution of the problem which now is before us.

Mr. IVES. Mr. President, will the Senator from Vermont yield to me?

Mr. AIKEN. I yield.

Mr. IVES. There is a third alternative which the Senator from Vermont might consider in connection with that matter; in other words, there is still the provision in the bill.

Mr. AIKEN. I realize that then the law will remain as it is.

Mr. IVES. No; I am talking about the bill.

Mr. AIKEN. I realize that the law will remain as it is unless the Congress, through its Appropriations Committees, enables the National Labor Relations Board to handle these cases better. I can visualize also that if the Watkins amendment were adopted, our Appropriations Committees might see fit to recommend a reduction of the Board's appropriations. If that were done, a great deal of the enforcement of the Federal law would be thrown back to the States.

The PRESIDING OFFICER. The question now is on agreeing to the amendment of the Senator from New York [Mr. IVES], as modified, in the nature of a substitute for the amendment of the Senator from Utah [Mr. WATKINS].

On this question, the yeas and nays have been ordered; and the clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. EASTLAND (when his name was called). On this vote I have a pair with the junior Senator from Nevada [Mr. BIBLE]. If he were present, he would vote "yea." If I were permitted to vote, I would vote "nay." I withhold my vote.

The rollcall was concluded.

Mr. MANSFIELD. I announce that the Senator from Nevada [Mr. BIBLE], Senator from Tennessee [Mr. GORE], are absent on official business.

Mr. DIRKSEN. I announce that the Senator from Utah [Mr. BENNETT], the Senator from Vermont [Mr. FLANDERS], and the Senator from Massachusetts [Mr. SALTONSTALL] are necessarily absent.

The Senator from North Dakota [Mr. LANGER] is absent on official business.

If present and voting, the Senator from Vermont [Mr. FLANDERS] would vote "nay."

The Senator from Utah [Mr. BENNETT] is paired with the Senator from North Dakota [Mr. LANGER]. If present and voting, the Senator from Utah would vote "nay," and the Senator from North Dakota would vote "yea."

The result was announced—yeas 43, nays 46, as follows:

YEAS—43

Carroll	Chavez	Clark
Case, N. J.	Church	Cooper
Douglas	Jordan	O'Mahoney
Ellender	Kefauver	Pastore
Fulbright	Kennedy	Payne
Green	Kerr	Proxmire
Hayden	Kuchel	Purtell
Hennings	Long	Smathers
Hill	Magnuson	Sparkman
Humphrey	Mansfield	Symington
Ives	McNamara	Thye
Jackson	Monroney	Wiley
Javits	Morse	Yarborough
Johnson, Tex.	Murray	
Johnston, S. C.	Neuberger	

NAYS—46

Aiken	Dworshak	Mundt
Allott	Ervin	Potter
Anderson	Frear	Revercomb
Barrett	Goldwater	Robertson
Beall	Hickenlooper	Russell
Bricker	Hoblitzell	Schoeppel
Bridges	Holland	Smith, Maine
Bush	Hruska	Smith, N. J.
Butler	Jenner	Stennis
Byrd	Knowland	Talmadge
Capehart	Lausche	Thurmond
Carlson	Malone	Watkins
Case, S. Dak.	Martin, Iowa	Williams
Cotton	Martin, Pa.	Young
Curtis	McClellan	
Dirksen	Morton	

NOT VOTING—7

Bennett	Flanders	Saltonstall
Bible	Gore	
Eastland	Langer	

So Mr. IVES' amendment, as modified, in the nature of a substitute for Mr. WATKINS' amendment, was rejected.

Mr. WATKINS. Mr. President, I move to reconsider the vote by which the amendment in the nature of a substitute was rejected.

Mr. KNOWLAND. Mr. President, I move to lay that motion on the table.

Mr. MORSE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second?

The yeas and nays were not ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from California [Mr. KNOWLAND] to lay on the table the motion of the Senator from Utah [Mr. WATKINS], to reconsider the vote by which the amendment was rejected.

The motion to lay on the table was agreed to.

Mr. MORSE obtained the floor.

Mr. KNOWLAND. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. MORSE. I will yield if I do not lose my right to the floor.

Mr. KNOWLAND. Mr. President, I ask unanimous consent that the Senator from Oregon, without losing his right to the floor, may yield to me so that I may make a parliamentary inquiry.

The PRESIDING OFFICER. Is there objection to the request of the Senator from California? The Chair hears none, and it is so ordered. The Senator will state his parliamentary inquiry.

Mr. KNOWLAND. Is the pending amendment the Watkins amendment?

The PRESIDING OFFICER. The Senator is correct. The pending question is on agreeing to the amendment offered by the Senator from Utah [Mr. WATKINS]. On this question, the yeas and nays have been ordered.

The Senator from Oregon has the floor.

Mr. MORSE. Mr. President, I wish to speak briefly in opposition to the Watkins amendment.

The PRESIDING OFFICER. The Senate will be in order so that the Senator from Oregon may be clearly and plainly heard.

Mr. COOPER. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Oregon yield to the Senator from Kentucky?

Mr. MORSE. I shall yield to the Senator from Kentucky if I do not lose my right to the floor.

Mr. COOPER. Mr. President, will the Senator yield so that I may offer an amendment to the Watkins amendment?

Mr. MORSE. I cannot hear the Senator.

Mr. COOPER. I should like to offer an amendment to the Watkins amendment. Will the Senator yield for that purpose?

Mr. MORSE. I yield for that purpose.

The PRESIDING OFFICER. The amendment to the amendment will be stated for the information of the Senate.

The CHIEF CLERK. On line 8 of the amendment offered by Mr. WATKINS, after the word "jurisdiction," it is proposed to add the following:

Provided, That in the determination of causes over which an agency or court has assumed jurisdiction the provisions of the National Labor Relations Act of 1947, as amended, and construed by the courts of the United States, shall be applicable.

Mr. COOPER. Mr. President, those who were on the floor when we were first discussing the amendment offered by the Senator from Utah will understand the meaning of my amendment.

Mr. WATKINS. Mr. President, will the Senator yield? Does the Senator have a copy of his amendment?

Mr. COOPER. The amendment is at the desk.

In the debate when the Senator first offered his amendment I think certain facts became clear. The National Labor Relations Act today gives to the Federal Government plenary jurisdiction in all labor disputes which affect interstate commerce. Therefore, when we talk about giving up jurisdiction or returning jurisdiction to the States we are talking about a situation which does not exist. The Federal Government now has jurisdiction.

If there is a "no man's land" it is because the National Labor Relations Board has not had the money or the personnel to take jurisdiction in every case. Perhaps even if the Board had the money and the personnel it could not take jurisdiction in every case.

If the Senator's amendment should be adopted, a second question would arise. What standards would guide the courts or the agencies in their determination of causes over which they would assume jurisdiction? This is not an abstract question. In connection with the case which came up in the Supreme Court from the Senator's own State, in the arguments made there were differences of opinion as to whether State courts, if they had the power to act, should act under State statutes or under the National Labor Relations Act—or how they should act.

The courts have held—and whether they have held it or not, the Taft-Hartley Act provided—that there should be uniformity in dealing with the disputes which arise under it. That provision is already the law. So I have offered this amendment to provide, in case it should be adopted, that the State agencies and courts which would assume jurisdiction over causes would be guided by the provisions of the Taft-Hartley Act, and by the decisions of the courts of the United States in construing that act. So there would be uniformity in the various States, and we would not have one State holding in one way concerning a particular industry, and another State holding in a different way concerning the same industry. The amendment would provide for uniformity in decisions arising under causes over which a court or an agency assumed jurisdiction. Without it there would be differences in decisions respecting the same matters all over the United States.

Mr. MORSE. Mr. President, I wish to associate myself with the remarks of the Senator from Kentucky. I shall support his amendment. I think it is a sound amendment.

I wish to comment very briefly in opposition to the Watkins amendment. I would describe it under the title of "Making Confusion Worse Confounded."

I wish to make three or four points very quickly. First, I point out that we are dealing with an interstate commerce issue. We are dealing with the interstate commerce clause of the Constitution, and all the cases which are involved in the so-called no man's land area should be kept in mind as cases which the Supreme Court includes within its interpretation of the interstate commerce clause. If that were not true, Congress would not have jurisdiction to enact any legislation about them in the first place.

Suppose it were proposed to enact legislation which would apply the interstate commerce clause to one State and not to another State. We know what would happen to that kind of proposal. The proponent of it would be laughed off the floor of the Senate. He would not receive a single vote.

What has been happening, the way the National Labor Relations Board has been operating, is that thousands of our fellow citizens have not been granted their constitutional rights under the interstate commerce clause because the National Labor Relations Board has been refusing to take jurisdiction over their cases. So, as to those workers and those employers, there is an injustice. It must be remembered that employers also have a vested interest in this issue. In fact, I shall use as my chief witness in my speech tonight the representative of the State Chamber of Commerce of the State of New York, who pleaded with our committee not to adopt the Watkins amendment.

Senators would do well to talk with many employers as to their views about the application of the Watkins amendment. Many employers, as well as workers, recognize that it would result in a discriminatory application of the commerce clause, with the result that many people would not be accorded the benefits to which they are entitled under the commerce clause.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. MORSE. I wish to make my argument. There is great pressure afoot. I know the parliamentary situation. I do not intend to let the amendment come to a vote until I shall have made a record showing that these legal points have been raised. In my judgment they are unanswerable legal points.

We are dealing with the question of whether or not we are to support a uniform application of the interstate commerce clause across the breadth of America, or whether we are to adopt an amendment which, in effect, seeks to carve up the commerce clause and seeks to have a myriad of differing decisions in regard to interstate commerce industrial relations cases. That is my first illustration of what I mean when I say the Watkins amendment makes confusion worse confounded.

The second point I wish to make is with regard to the arguments which have been made as to what is happening to the States under the no-man's-land cases. There has been a great deal of bleeding on the floor of the Senate for the States which have not complied with section 10 (a) of the Taft-Hartley law. Let me read that section:

SEC. 10. (a) The Board is empowered, as hereinafter provided, to prevent any person from engaging in any unfair labor practice (listed in sec. 8) affecting commerce. This power shall not be affected by any other means of adjustment or prevention that has been or may be established by agreement, law, or otherwise: *Provided*, That the Board is empowered by agreement with any agency of any State or Territory to cede to such agency jurisdiction over any cases in any industry (other than mining, manufacturing, communications, and transportation except where predominantly local in character) even though such cases may involve labor disputes affecting commerce, unless the provision of the State or Territorial statute applicable to the determination of such cases by such agency is inconsistent with the corresponding provision of this act or has received a construction inconsistent therewith.

My second point is that under the Taft-Hartley law there is nothing to stop any State legislature from passing a State labor relations act consistent with the Taft-Hartley Act, under which provision the National Labor Relations Board could cede jurisdiction over the so-called minor cases—but major cases to the employers and employees involved—to a State agency, such as a State labor relations board, provided the State has enacted legislation in conformity with the Taft-Hartley Act.

That protects the uniform application of the commerce clause of the Constitution. That is keeping faith with equality of justice for all citizens on the same subject matter under Federal jurisdiction.

We hear it said that great injustice is being done to some of the States by reason of this "no man's land" because the cases cannot be handled in the States. Whose fault is that? It is the fault of the States, and not the Federal Government.

The Senator from New York [Mr. IVES] is not at present in the Chamber. He would be my witness to the fact that in 1947 he and I, along with the late Senator Taft, drafted that proviso clause. That is my second point.

My third point is that in connection with the Guss case, the Utah case referred to so frequently in this debate, we must bear in mind the fact that in the first instance the National Labor Relations Board did take jurisdiction. The first phase of that case was a representation issue. The Board took jurisdiction in the Guss case originally.

Then an unfair labor practice issue arose in the Guss case, and in the intervening time, in 1954, the Board adopted an entirely new set of jurisdictional standards.

Mr. President, I should like to have Senators keep in mind what I am saying when we come to analyze some of the very pregnant language. The Watkins amendment deals with standards, incidentally. In 1954, after the National Labor Relations Board had previously taken jurisdiction in the Guss case over a representation issue, the Board adopted a wholly new set of jurisdictional standards. Under those new standards, the Board would not assert jurisdiction in the Guss case over the unfair labor-practice issue.

As the Board's annual report shows, whether the Board will or will not assert jurisdiction under the 1954 standards, as interpreted in hundreds of cases, is a branch of law all by itself. In some way, somehow, we must take enough time during the debate to get the Senate to understand how jurisdiction is taken in a labor case before the National Labor Relations Board. I say most respectfully, Mr. President, the difficulty that I find in the debate is that so many of my colleagues do not understand the procedure of getting a case before the Board. They do not understand the significance of the set of standards of criteria which the Board has set up to determine whether or not it will take jurisdiction. In my informal conversations on the floor of the Senate with many of my colleagues, I find that in these cases in the so-called "no man's land" field, they believe that the National Labor Relations Board, specific case by specific case, has rejected the jurisdiction. That is not so at all. In the overwhelming majority of these cases, the people involved in them have never seen the inside of a National Labor Relations Board room; they have never been anywhere near the National Labor Relations Board.

Failure on the jurisdiction question involves a set of standards, so far as jurisdiction is concerned. Let me show the Senate a recent annual report of the Board. I have in my hand the 21st annual report of the National Labor Relations Board for the fiscal year ended June 30, 1956. We start on page 7, under the title "Jurisdiction of the Board." We go on to page 28 for a lengthy discussion of these complicated standards which the Board has set up for taking or not taking jurisdiction, with footnotes and citations to literally scores of cases.

That shows the complexity of the application of the standards.

It is not a fact when it is said that if the Board does not take jurisdiction in a particular case it means the Board has ruled on that specific case. It merely means that it is alleged that under the standards applied by the Board, the case would not fall within the jurisdiction of the Board. The determination of the application of the jurisdictional criteria can take as much time and energy as a determination of the case on the merits.

My next point was admitted by the counsel of the Board and by the Chairman of the Board under my cross-examination at the hearings. The Supreme Court of the United States has never ruled, up to this hour, that the Board has the right to refuse jurisdiction in an interstate case. I repeat that. The Supreme Court of the United States has never, in any case, ruled on the question of whether the National Labor Relations Board has any right to set up these very complex standards and criteria on jurisdiction. I do not propose to stand here this evening and predict what the Supreme Court will do when such a case comes before it. However, I wish to say it is a great constitutional issue for the Court still to determine. It is my opinion that we cannot square, under the Constitution of the United States, the denial to workers in a plant or to the employer a uniform application of the commerce clause to an industrial relations dispute which has arisen in that plant.

Mr. CASE of South Dakota. Mr. President, will the Senator yield?

Mr. MORSE. No; I shall not yield until I have finished my argument. It cannot refuse once Congress provides for a procedure which gives a uniform application of that clause of the Constitution. That is what we had in mind in 1947 when we wrote the proviso in section 10 (a) into the Taft-Hartley law.

This is not a new issue for those of us who have been in the midst of these labor relations questions for years. In 1947, when the Taft-Hartley law was being written on the floor of the Senate, we came to grips with the matter of what we would do with some of the so-called minor cases. They are minor in that the businesses do not involve many employees and do not have large capitalization, and do not deal with a tremendous amount of interstate business; but, nevertheless, they are a business, and they fall within the jurisdiction of the interstate commerce clause.

I remember very well the distinguished Senator from New York [Mr. IVES], back in 1947, on this point. Much of the credit for the proviso clause of 10 (a) goes to the Senator from New York.

Out of those conferences came this provision, that the Board should be allowed to cede jurisdiction, provided it was ceding jurisdiction to a State agency which was bound by the same standards and the same provisions and the same requirements that bound the Federal agency operating under the Taft-Hartley law.

This is a very important legal point. The no man's land issue has arisen because States have not passed legislation necessary for the application of the proviso clause in section 10 (a).

In support of the position I have just enunciated, in regard to the position of the Supreme Court, let us go to the Guss case. This is what the majority of the Supreme Court said in the Guss case:

> This Court has never passed and we do not pass today upon the validity of any particular declamation of jurisdiction of the Board or any set of jurisdictional standards.

Up to the moment that I speak, that is the last word on the subject. Nothing said here in the Senate can change that judicial fact. Up to this moment the Supreme Court has said, in effect: "We have not passed on the question as to whether the National Labor Relations Board can cede jurisdiction, or that the National Labor Relations Board can set up a set of standards which denies jurisdiction under the interstate commerce clause."

In my opinion it would be an unsound interpretation of the Constitution if the Court should so hold, because my difficulty with such a holding would be that it would result in unequal treatment to fellow Americans under the Constitution of the United States.

It is proper to cede jurisdiction, provided in the ceding of the jurisdiction the rights of parties are not changed in any way. That is why the provision in the 1947 act, under the leadership of the Senator from New York [Mr. IVES], was worked out for the Taft-Hartley law.

Furthermore, I have always taken the position that it requires a legislative act to vary jurisdiction by standards. I have always taken the position that the National Labor Relations Board, by establishing a set of jurisdictional standards, is legislating; and it has no authority to legislate.

I have always taken the position that when the National Labor Relations Board adopted these complex, complicated criteria and standards for the releasing of jurisdiction, they tried to set themselves up as Congress. It does not fall within their administrative prerogative. The question as to whether any group are to be denied their rights under the commerce clause never vests in a board in the exercise of its discretion, but only in Congress.

I do not speak for the Supreme Court, but I want to tell Senators what my hunch is. My hunch is that in the language I cited, the Supreme Court hinted much. In the Guss case, the Supreme Court went out of its way to say that the court has never passed, and did not pass then, upon the validity of any particular declination of jurisdiction by the Board or any set of jurisdictional standards. I do not think we should have to be hit on the head to get the hint of the Court.

Let me go back to the record. When Mr. Leedom, chairman of the National Labor Relations Board, was on the stand—I refer to page 799 of the hearings—I said:

> Now as to the Guss case—and I want you to know, Judge, that I speak most respectfully to the Board as I bring out some criticisms that I think this hearing should have brought out, or raise some problems of Board policy I think should be raised in fairness to you so you can make comment on them, because if we are going to legislate on this matter and be of assistance to you and carry out our public trust, we have got to know what the problems are we are legislating about.
>
> Now in the Guss case, the Supreme Court held, and I quote:
>
> "This Court has never passed and we do not pass today upon the validity of any particular declination of jurisdiction by the Board or any set of jurisdictional standards."
>
> Now, unless there is some case I have missed, it is my understanding that the law as of this hour is that the declination of jurisdiction by the Board has never been validated by the Supreme Court, nor has the Supreme Court ever directly on the nose, as we say, approved the standards of these criteria of jurisdiction that you have set up.
>
> Am I in error as to the law on that?
>
> Mr. LEEDOM. No, sir.

NO MAN'S LAND AGGRAVATED BY ADMINISTRATIVE ACTION

> Senator MORSE. So we are confronted in this country today with an administrative agency that is, in the exercise of administrative discretion, denying to thousands of workers and hundreds of employers any protection under the National Labor Relations Act on the ground that the Board says in effect: "We do not have the personnel, we do not have the money, we do not have the available time to do the work that is called for under this act."
>
> Is that a fair statement?
>
> Mr. LEEDOM. Yes; although I presume I will be given a chance to make a little explanation.
>
> Senator MORSE. Oh, stop me any time.
>
> Mr. LEEDOM. Well, in the quotation you gave us from the Guss case, of course, it is clear that the Court did not say that we did not have the right to fix jurisdictional standards and——
>
> Senator MORSE. It was not at issue directly, was it?

COURT APPROVAL OF BOARD LIMITATIONS OF JURISDICTION

> Mr. LEEDOM. It really was not at issue, so I am not saying the Court ruled on it. I am merely saying if the Court wanted to frown more severely on the practice, they had an opportunity. But the important thing is at least two circuit courts of appeal have recognized the right to limit our jurisdiction and the Board ever since it came into existence has limited its jurisdiction. Congress has made very comprehensive amendments to the act since the Board started limiting its jurisdiction and did nothing about that. So I think that the history back of this action that was taken latest by the Board in 1954 is, you might say, a warranted action.
>
> Senator MORSE. I am sure my time is up but I want to come back to the statements you made about the failure of the Supreme Court to comment on the exercise and discretion to exercise when it was not at issue before the Court.
>
> Is it your position that because the Court remained silent on a matter that was not at issue before the Court that it indirectly approved of your criteria?
>
> Mr. LEEDOM. No, sir.

Mr. President, there is no doubt that we are dealing here with a very important procedural safeguard, which I think will simply be destroyed by the Watkins amendment, if it is adopted. I do not know what I can do to get the Senate to pause long enough to go to the books and study the effect of the amendment. All

I can do is to raise warning flags about it.

I move now to my next point. I turn to the language of the Watkins amendment itself. Remember what I said a few moments ago about how these jurisdictional standards came into existence. Remember what I said a few minutes ago: that when a case is considered to be outside the jurisdiction of the National Labor Relations Board, that does not mean that the Board has ruled on the case. I read the language of the amendment:

Nothing in this act shall be deemed to prevent or bar any agency, or the courts, of any State or Territory from assuming or asserting jurisdiction over labor disputes over which the Board by rule or otherwise has declined to assert jurisdiction.

I emphasize: "by rule or otherwise has declined to assert jurisdiction."

Mr. President, I will bet a dinner that if I were to sit down and talk personally with individual Senators and ask them the question, "Is it your understanding that under the Watkins amendment, before the State would get jurisdiction of a case, the National Labor Relations Board would, in the first instance, have had to turn it out by direct decision?" I would find that a majority of my colleagues are laboring under the misapprehension that that is what is involved in the case. But it simply is not.

I will give a hypothetical case. I want Senators who think that a great issue of States rights is involved to follow this statement.

Let us take the State of Georgia, for example. Suppose it has been alleged that in a little plant in Georgia an unfair labor practice has been committed by a union. The Watkins amendment, let us suppose, is on the books. The employer says to his attorney, "I want you to go before a Georgia court immediately and ask it to take jurisdiction of the case."

If that procedure is followed under the Watkins amendment, the amendment in effect will turn every State court in the land into a "little labor relations board." There has been talk about the backlog of cases before the National Labor Relations Board, something about which the Senator from New York [Mr. IVES], the Senator from Massachusetts [Mr. KENNEDY], and I, and some of the rest of us want to do something, because that is where we think the trial ought to be held, until a good showing has been made that Congress should adopt some other procedure. That is what the Ives amendment sought to do. It was a very sound amendment. It is a sad thing that it was rejected. I think it was rejected because Senators did not understand the procedural point I am discussing. They are under the impression that a State will take over a case only after the National Labor Relations Board has specifically rejected the case. But the National Labor Relations Board, in most instances, will never even have seen the case or heard about it. That is what a monstrosity the Watkins amendment is, procedurewise. So I go back to my hypothetical case.

To continue the example: The attorney goes before a Georgia court. What does the judge in the Georgia court first have to determine? Remember, we are talking about a State judge in a State court. He has to decide, first, the issue before him: whether it is a case of which the National Labor Relations Board should take jurisdiction.

How will he determine that question? Well, really, there will be a trial on the question. There will have to be a court proceeding. There will have to be a discussion of the criteria and standards of jurisdiction which the National Labor Relations Board has established, as to whether it will or will not take jurisdiction. The lawyers will argue on one side that the State court does have jurisdiction, because the National Labor Relations Board would not take jurisdiction, if the case should have happened to get before it; and the union will argue that the State court does not have jurisdiction. The union will contend that it is a case which does not conform to the jurisdictional criteria of the National Labor Relations Board.

And finally the judge will decide whether he will proceed with the case. If he decides that he will proceed with it, then the union will take its exceptions, and will file an appeal; and the appeal will go on and on and up and up, through the court system; and finally the Supreme Court will decide whether the Georgia court was right or was wrong in taking jurisdiction in the first place; but no one will have gotten anywhere with the merits of the case. Mr. President, if we stop long enough to consider what such procedure would amount to, how can we even think of voting for the adoption of such procedure?

I point out that such procedure cannot be erased from the Watkins amendment, because it provides that—

(c) Nothing in this Act shall be deemed to prevent or bar any agency, or the courts, of any State or Territory from assuming and asserting jurisdiction over labor disputes over which the Board by rule or otherwise has declined to assert jurisdiction.

Mr. President, the words "by rule or otherwise" mean by criteria, by standards which had been set up. And these standards have been promulgated; and I say these standards are really statutes, beyond the Board's rulemaking power.

After the promulgation of these criteria and these standards, the lawyers will have a great time determining whether this particular case in Georgia comes under those standards. Mr. President, the amendment will be a great boon for the activities of labor-relations lawyers across the country.

The point I wish to make in regard to the meaning of the Watkins amendment is that there is nothing clear about it, from the standpoint of a court decision on a specific case. And when we realize that such cases would be multiplied, not by the hundreds, but by the thousands, we realize what a backlog of cases there will be.

Earlier this afternoon the Senator from Kentucky [Mr. COOPER] talked about what would happen if we adopted such a legislative precedent. In that case, instead of giving the National Labor Relations Board the funds it needs in order to assert its jurisdiction over cases coming under the interstate commerce clause, we would find antilabor forces in the country conducting a drive each year to cut down the appropriations for the National Labor Relations Board, in order that more and more cases would go to the States; and in the States there would be such a great diversity of laws and opinions. That is why, as more and more employers have in recent weeks begun to awaken to what is involved in the Watkins amendment, we have begun to receive testimony such as that given before our committee by the representative of the New York State Chamber of Commerce. His testimony was in opposition to the Watkins amendment. Let me call attention to part of his testimony, and for this purpose I make him my witness.

Mr. David L. Benetar, who is chairman of the Committee on Labor-Management Relations, of the New York Chamber of Commerce, testified, in part, as follows:

I would like to address these remarks to the question of the "no man's land," and to start by saying that the "no man's land" results, as we see it, from a combination of two factors.

One of them is the Congressional intention to extend uniform labor law in this Nation to the full reach of the commerce power. Not that it was Congress' intention to preempt the States from this field, but rather, to make sure that all federally covered employers and employees would be governed by a uniform law.

Mr. President, how sound that testimony is.

I read further from his testimony:

A wise and worthy policy, this Congressional one, because if ever there was a need in any field of law for uniformity and stability, it is in the field of labor relations.

The other factor which led to the "no man's land" was the failure of any State to come forward and qualify for cession from the National Board under the conformity provisions of section 10 (a). The door has always been open for them to come in and exercise jurisdiction wherever the National Board declined to do so, upon the execution of a cession agreement if they were operating under a statute in conformity with the national law. None of them has seen fit to do so.

Mr. President, I shall not take time to read all of his testimony. It is in the hearings, for Senators to read if they wish to do so. I still like to believe that Senators will wish to read it before they make a great mistake by voting for adoption of the Watkins amendment.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD the testimony given before the committee by David L. Benetar, chairman of the Committee on Labor-Management Relations, of the New York Chamber of Commerce.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF DAVID L. BENETAR, CHAIRMAN, COMMITTEE ON LABOR-MANAGEMENT RELATIONS, NEW YORK CHAMBER OF COMMERCE

Mr. BENETAR. Mr. Chairman, gentlemen of the committee, I speak as chairman of the committee on labor-management relations of the New York Chamber of Commerce. I

am a practicing attorney in the State of New York, where I have been practicing since 1929. I have served the Government in Washington at the National War Labor Board, and in New York at the Regional War Labor Board.

Most of my practice has been devoted to specializing labor-management relations matters in the city of New York.

I would like to address these remarks to the question of the no man's land and to start by saying that the no man's land results, as we see it, from a combination of two factors.

One of them is the Congressional intention to extend uniform labor law in this Nation to the full reach of the commerce power. Not that it was Congress' intention to preempt the States from this field, but rather, to make sure that all federally covered employers and employees would be governed by a uniform law. A wise and worthy policy, this Congressional one, because if ever before was a need in any field of law for uniformity and stability, it is in the field of labor relations.

The other factor which led to the no man's land was the failure of any State to come forward and qualify for cession from the National Board under the conformity provisions of section 10 (a). The door has always been open for them to come in and exercise jurisdiction wherever the National Board declined to do so, upon the execution of a cession agreement if they were operating under a statute in conformity with the national law. None of them has seen fit to do so.

LETTING THE STATES STEP IN AUTOMATICALLY

The proposals or the majority of proposals before your committee would automatically let the States step in wherever the National Board declines to act, but would let them step in to act on their own terms, which means that the proposals before you are proposals to reverse the policy of the national law and, instead of having a no man's land, to have an every man's land with 48 States regulating federally covered employees and employers in 48 ways, if they so desire.

Those are the effects and results of the proposals before you.

I deplore a no man's land, but I think you can have a solution which is more dangerous than the evil which it is intended to correct; and I think the solutions which are under discussion here, and have been throughout most of today, would create more mischief in the labor-relations field than they would quiet.

Let me be a little bit more specific.

If the States may step in wherever the National Board declines to act, then you will not only open the door for 48 ways of handling labor problems affecting federally covered employees—and that is all I am talking about; I am not talking about employees in intrastate commerce—you will have opened the door for 48 ways of regulating federally covered employees, and we will have this situation:

Within any given State, you will have an employer with an annual volume of indirect purchases, let us say, of a million dollars, with the result that the National Board will take jurisdiction of his case. His next-door competitor may have only $900,000 volume, so the National Board will not take jurisdiction. The consequence is that these two competitors and their employees, both of them either engaged in interstate commerce or affecting it, are going to be regulated, one by the National Board and the other by the State board.

CLOSED SHOP IN NEW YORK STATE

Take my home State of New York, and let us see what would happen.

There would be innumerable differences, and basic differences, in the way the two competitors' cases would be handled, just depending on their volume of business. For example, the competitor who was lucky enough to hit the $1-million volume would be protected, and so would his employees be protected, against a closed shop. The union could not demand it, they could not force the enough to hit the $1 million volume would being hired, and it would be an unfair labor practice for the union to insist on a closed shop in that competitor's business.

But in company B, whose volume was only $900,000, the union can come in and demand a closed shop and get a closed shop, and force employees to join the union as the price of getting or even of applying for a job. It is being done every day, with the consequence that we have industries in New York where the supply of labor is controlled by the unions who have closed shops. By the mere accident that this competitor has a volume of only $900,000 he would be subject to that.

There would be differences all along the line. The larger competitor's supervisors would be excluded from any elections because under the national act they are not employees. The smaller competitor's supervisors could go in and be certified. Guards would be handled differently. Professional employees would be handled differently.

And let us take another look at this picture: After the New York board, let us say, acting under a grant of power by Congress to act where the National Board did not act—after the New York board certified this union, the employer would be under a duty to bargain collectively in good faith, but the union would not, because under New York law there is no such thing as a union unfair labor practice, and under New York law no union can be compelled to bargain in good faith by a labor board, by a court, or by anybody else.

Now let me give you the supreme irony.

Next year, the fellow with a million dollars of indirect purchases has a fall off in business and a new union comes in for an election, but this time he has only $900,000 of volume, so next year his case goes before the State labor board. The closed shop that he refused to agree to last year now becomes legal.

And the other competitor, who had only $900,000 volume last year, goes into the million-dollar class, and a new union comes along and applies for an election in his case, and he now comes under the aegis of the National Labor Relations Board and gets the protection against a closed shop and is able to insist on the union bargaining in good faith.

NEW YORK STATUTE

This question of the New York statute—and I am not talking about the New York board; I am talking about the law under which they must operate—they have no discretion in this matter. They cannot say that they would like to do something about the Federal law. They operate under a statute which tells them what to do.

Let me illustrate. One of our best judges in New York State, Judge Bookstein, made this remark when this issue came up before him. He said:

"Surprising as it may seem, it is true, as contended by the board"—meaning our labor board—"that while an employer may be guilty of an unfair labor practice as defined in the State labor relations act, no practice on the part of an employee or a labor organization, no matter how unfair it may appear to the average person, constitutes an unfair labor practice under the State labor relations act."

Now is Congress going to deliver to the tender mercies of that kind of a statute federally covered employees and employers and say to them, "the National Board does not wish to take jurisdiction over you, so you are now relegated to the New York law which does not give you one-tenth of the protection that the national law does."

This is not only a reversal of the policy of uniformity which is embodied in the Labor-Management Relations Act of 1947, but, as we see it, would be a grave injustice to companies engaged in commerce and their employees.

Let us talk a moment, if we may, about the McClellan committee, and the problems which confronted it, because, as I understand the purpose of this committee, it is primarily to focus its attention, at least at this time, on legislation which grew out of the facts coming on or brought to light in the McClellan hearings, or at least those problems which are mentioned in the first portion of the report of that committee.

"SWEETHEART" CONTRACT

The McClellan committee came across the "sweetheart" contract situation. Let us just take a look at the "sweetheart" contract situation in the light of the legislation which has been proposed here.

Gentlemen, a racketeer union which has for sale a "sweetheart" contract does not have to go to any labor board. That is not the way they operate, because either the employer, if he is ready to violate the law, welcomes them and recognizes them gratefully, lest another more vigorous union comes along, or else he will have nothing to do with them and they have nothing to do with him because they are looking for money in the form of payoffs.

So the racketeer union which is peddling a "sweetheart" contract does not have to go to the Labor Board. But in the McClellan hearings, instances were described where racketeer unions had the employees of a firm in their clutches, under a 2- or 3-year contract. People who were fighting those unions went to the National Labor Relations Board and applied for a decertification of the union, or a deauthorization of the union shop.

That deauthorization of the union shop is a terrific weapon in the hands of a rival against a racketeer union, because it goes to the most vulnerable point of a racketeer union—hits them in their pocketbook. If the union shop can be revoked, then the automatic collection of dues will be revoked, and the racketeer union will rapidly lose interest in the shop.

And so, those who were fighting the racketeers—and they testified to this before the McClellan committee—came in and used the National Board's facilities and applied at the National Board for decertification of these racketeer unions or deauthorization of the union shop.

And the question was asked—I happened to be watching the hearings and I think it was Senator IVES who asked one of the witnesses:

"Why didn't you ever go to the New York board?" Because this witness came from New York, and he was testifying about the oppressed immigrant workers in New York City.

He (Senator IVES) said, "Why didn't you go to the New York Labor Board? Why did you always file at the National Board?"

PROVISIONS OF NEW YORK LAW

And the man gave the only answer he could under New York law. "In New York you can't file for a decertification of a union, and you cannot file for a deauthorization of the union shop. There is not any provision for it."

So if this committee is looking for solutions of problems raised by the McClellan hearings, and rightly you must be looking for such solutions, surely they are not going to be found in the kind of legislation which will automatically put the State boards in whenever the National Board fails or refuses to act.

This is going to create, if you please, a hodgepodge, in a field which cannot afford this kind of diversity of treatment and with respect to employees who are entitled to the protection of the national law.

I think I have said enough to illustrate the basis of my approach.

May I, sir, say a word or two concerning the solution which I propose.

Senator MCNAMARA. Go right ahead.

Senator MORSE. Mr. Chairman, may I interrupt for this remark.

I would say, as we lawyers say, "Your Honor, I rest my case." That is about what I would say at the present time, and would file my statement. But I would be delighted to hear you further.

Mr. BENETAR. Well, I think to be solely critical without having any constructive suggestion could itself by criticized; and while I am mindful of the fact when the judge is with you, you should stop, I will take that advice by stopping very shortly.

STATE APPLICATION OF FEDERAL LAW

My proposal is this: I think the States should be invited in to act wherever the National Board fails to do so or is unable to do so for budgetary reasons. I would like to see the National Board cover the whole field, if it were feasible. But if it is not, I think the States ought to come in, but not on their own terms, and it is my proposal to your committee that any State be authorized to step into a labor relations dispute, otherwise regulated by the Federal law, provided—and this your statute would so read—in the determination of that dispute and in any further disputes between those parties, the State would follow and apply Federal law as written and interpreted.

This, gentlemen, would do two things: It would give cognizance to the doctrine of States rights, because intrastate commerce could still be regulated as each State saw fit. Over such commerce each State has exclusive rights and no one can tell them what to do. But in the case of employees and employers covered by Federal law, it would be up to each State in its legislature to decide whether they wished to step into the area vacated; and, if they did, then they should give their agency power to step in, but on Federal terms.

Mr. MORSE. The witness pointed out how unfair this would be to the employers of America, and what a great hardship it would impose on employers in the various States which have good laws, and on employers in States that come under the Federal law, and on employers in States with low labor standards, where the employers would come under loose State laws that work to the detriment of employers, as opposed to the laws in States which have good labor standards. That is what would happen if the Congress were to enact a provision based on the principle of non-uniformity of application of a constitutional right under the commerce clause.

Mr. President, I could speak at greater length, but I believe I have made my case. My case can be summarized by saying that the Watkins amendment makes confusion more confounded.

Today, the Senate had an opportunity to adopt the Ives amendment, which was the amendment of a labor statesman. I think it is sad that that amendment was not adopted. If it had been adopted, the bill would have included both the language of the committee amendment and the language of the amendment of the Senator from New York.

But now we are faced with the amendment proposed by the Senator from Utah [Mr. WATKINS], plus the possibility of the inclusion of any language which, under the rules of the Senate, would be permissible for inclusion, now that the amendment of the Senator from New York has been rejected.

Mr. President, I want the RECORD to show that at least at this hour I raise my voice in warning against the result of adoption of an amendment which would prove to be a legal monstrosity. If the amendment is adopted, it will come back to plague the Congress.

Mr. President, I am such a firm believer in the uniform application of the Constitution to all the citizens of the country that I could not think of voting for proposed legislation which included the Watkins amendment. On that issue alone, I would refuse to vote for the bill, if the Watkins amendment were added to it, because as a lawyer I do not intend to sully whatever reputation I have for a knowledge of constitutional principles—and for teaching as I did for 15 years—the principle that in the United States the Constitution must be applied uniformly to like cases, if justice is really to be upheld.

Mr. President, I rest my case on the ground that the amendment of the Senator from Utah cannot be reconciled with the uniform application of justice in America.

Mr. JOHNSON of Texas. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSON of Texas. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Texas will state it.

Mr. JOHNSON of Texas. The yeas and nays have been ordered on the Watkins amendment, have they not?

Mr. DOUGLAS. That is correct. The Cooper amendment, however, is the pending question.

Mr. COOPER. Mr. President, I withdraw my amendment. I shall offer it again if the Watkins amendment is adopted.

The PRESIDING OFFICER. The yeas and nays have been ordered on the Watkins amendment, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD. I announce that the Senator from Nevada [Mr. BIBLE] and the Senator from Tennessee [Mr. GORE] are absent on official business.

Mr. DIRKSEN. I announce that the Senator from Utah [Mr. BENNETT], the Senator from Vermont [Mr. FLANDERS], and the Senator from Massachusetts [Mr. SALTONSTALL] are necessarily absent.

The Senator from North Dakota [Mr. LANGER] is absent on official business.

If present and voting, the Senator from Vermont [Mr. FLANDERS] would vote "yea."

The Senator from Utah [Mr. BENNETT] is paired with the Senator from North Dakota [Mr. LANGER]. If present and voting, the Senator from Utah would vote "yea," and the Senator from North Dakota would vote "nay."

The result was announced—yeas 37, nays 53, as follows:

YEAS—37

Allott	Dworshak	Potter
Barrett	Goldwater	Purtell
Bricker	Hickenlooper	Revercomb
Bridges	Hoblitzell	Robertson
Bush	Holland	Russell
Butler	Hruska	Schoeppel
Byrd	Jenner	Smathers
Capehart	Knowland	Smith, N. J.
Carlson	Lausche	Thurmond
Case, S. Dak.	Martin, Iowa	Watkins
Cotton	Martin, Pa.	Williams
Curtis	Morton	
Dirksen	Mundt	

NAYS—53

Aiken	Hill	Monroney
Anderson	Humphrey	Morse
Beall	Ives	Murray
Carroll	Jackson	Neuberger
Case, N. J.	Javits	O'Mahoney
Chavez	Johnson, Tex.	Pastore
Church	Johnston, S. C.	Payne
Clark	Jordan	Proxmire
Cooper	Kefauver	Smith, Maine
Douglas	Kennedy	Sparkman
Eastland	Kerr	Stennis
Ellender	Kuchel	Symington
Ervin	Long	Talmadge
Frear	Magnuson	Thye
Fulbright	Malone	Wiley
Green	Mansfield	Yarborough
Hayden	McClellan	Young
Hennings	McNamara	

NOT VOTING—6

Bennett	Flanders	Langer
Bible	Gore	Saltonstall

So Mr. WATKINS' amendment was rejected.

Mr. KENNEDY. Mr. President, I move that the vote by which the Watkins amendment was rejected be reconsidered.

Mr. JOHNSON of Texas. Mr. President, I move to lay that motion on the table.

Mr. CASE of South Dakota. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas [Mr. JOHNSON] to lay on the table the motion of the Senator from Massachusetts to reconsider the vote by which the Watkins amendment was rejected. [Putting the question.]

The motion to reconsider was laid on the table.

Mr. CASE of South Dakota. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CASE of South Dakota. The junior Senator from South Dakota voted against the Ives amendment as a substitute for the Watkins amendment because he wished to vote for the Watkins amendment. The Watkins amendment has now been rejected.

In my personal opinion the language of the Ives amendment is far preferable to the language in the text of the bill. Is it now in order to offer the Ives amendment by way of a motion to strike section 602 of the bill and substitute the language of the Ives amendment?

The PRESIDING OFFICER. The Chair is advised by the Parliamentarian that such a motion would be in order.

Mr. CASE of South Dakota. I make such a motion.

Mr. HUMPHREY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HUMPHREY. Is the Ives amendment the one which was rejected a short time ago?

The PRESIDING OFFICER. The Senator is correct, but it was offered as a substitute for the Watkins amendment.

The question is on agreeing to the amendment offered by the Senator from South Dakota [Mr. CASE] by way of a motion to strike out section 602 of the bill and substitute the language of the so-called Ives amendment.

Mr. KNOWLAND. Mr. President, I ask for the yeas and nays on that motion.

The yeas and nays were ordered.

Mr. IVES. Mr. President, I suggest to the Senator from Massachusetts that this amendment be accepted.

Mr. KENNEDY. Mr. President, I wonder if we could obtain unanimous consent to rescind the order for the yeas and nays. In that case we could accept the amendment.

Mr. JOHNSON of Texas. I ask unanimous consent that the order for the yeas and nays be rescinded.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. JOHNSON of Texas. Mr. President, may we have a vote on the motion of the Senator from South Dakota?

Mr. CASE of South Dakota. Mr. President, during the debate on the Ives amendment, many Senators stated that the language in the Ives amendment was preferable to the language in the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from South Dakota, by way of a motion to strike out section 602 of the bill and substitute therefor the original Ives amendment, which will be stated.

The LEGISLATIVE CLERK. On page 36, it is proposed to strike out from line 21 to line 10 on page 37, and to insert the following:

SEC. 602 (a). Section 14 of the National Labor Relations Act, as amended, is amended by adding a new subsection as follows:

"(c) The National Labor Relations Board shall assert jurisdiction over all labor disputes arising under the National Labor Relations Act, as amended: *Provided*, That the Board is empowered by agreement with any agency of any State or Territory to cede to such agency jurisdiction over any cases in any industry (other than mining, manufacturing, communications, and transportation except where predominantly local in character) even though such cases may involve labor disputes affecting commerce, unless the provision of the State or Territorial statute applicable to the determination of such cases by such agency is inconsistent with the corresponding provision of this act or has received a construction inconsistent therewith."

SEC. 602 (b). Amend section 10 (a) of the National Labor Relations Act, as amended, by repealing the proviso thereto.

Mr. HUMPHREY. Mr. President, I felt that the Ives amendment was very desirable. I supported it, but I think it is perfectly clear that the Ives amendment was offered originally as a substitute for the Watkins amendment. Had it been adopted, it would have been in the bill on the first vote. All we are doing is marching up the hill, down the hill, and up the hill again. It is good exercise, but it is very confusing.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from South Dakota [Mr. CASE] by way of a motion to strike out section 602 of the bill and substitute therefor the language of the so-called Ives amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. SMITH of New Jersey. Mr. President, I offer the administration amendment, which I submitted last night. It is designated "6–12–58–PP."

The PRESIDING OFFICER. The amendment offered by the Senator from New Jersey will be stated.

The LEGISLATIVE CLERK. At the end of title I it is proposed to add the following new section:

SEC. . (a) In any labor organization to which the provisions of title I apply, the individual workers who have combined as members to form or maintain such organization for their mutual benefit have the right to have any money or other property which the organization acquires as a direct or indirect result of their financial contributions, or of their having formed such an organization, conserved for their benefit and not applied, invested, disbursed, or disposed of in any manner or for any purpose not authorized by the constitution, bylaws, or other rules of the organization to which they have agreed.

(b) Every officer, agent, or other representative of a labor organization to which subsection (a) applies shall, with respect to any money or other property in his custody or possession by virtue of his position as such officer, agent, or representative, have a relationship of trust to the labor organization and its members and shall be responsible in a fiduciary capacity for such money or other property in which the members have the rights stated in this section.

(c) An action or proceeding may be maintained in any court of competent jurisdiction to obtain appropriate relief with respect to any act or omission of any officer, agent, or other representative of a labor organization which is in disregard of any right or responsibility set forth in this section. Such an action or proceeding may be maintained by any one or more of the members of the labor organization for and in behalf of himself or themselves and other members similarly situated, or any such member or members may designate an agent or representative to maintain such action or proceeding for and on behalf of all members similarly situated. The plaintiff in any such action or proceeding shall be entitled to recover from the labor organization his costs and a reasonable attorney's fee if it appears to the satisfaction of the court that the action or proceeding was instituted in a good faith effort to conserve the assets of such organization for proper purposes, and the court may, if satisfied that justice will be served thereby, impose liability for reimbursement of such amounts on any defendant whom the court finds to have acted or omitted to act in disregard of any right or responsibility set forth in this section.

(d) With respect to actions under the provisions of this section, the United States district courts, together with the District Court for the Territory of Alaska, the United States District Court for the District of the Canal Zone, the District Court of the Virgin Islands, and the District Court of Guam, shall have jurisdiction.

(e) Nothing in this section shall reduce or limit the responsibilities of any officer, agent, or other representative of a labor organization under the law of any State, and nothing in this title shall take away any right or bar any remedy to which members of a labor organization are entitled under the law of any State.

Mr. SMITH of New Jersey. The amendment aims to put the same responsibility on individuals who have charge of union funds, paid into trust funds, as is imposed on the trustee of any other kind of trust funds. These are funds which are paid into the union treasury, to give protection to those who have contributed the funds. The amendment would provide the usual protection which is given to trust funds under any reasonable trust fund arrangements. We wish to establish the same liability against any person who misuses such trust funds. I am speaking, of course, of funds which union members contribute for the purpose of the union, for the purpose of the union welfare fund, or for any other purpose, to which the members contribute money which is paid to the union either by the members directly or through a checkoff system. In either case the members are compelled to pay the funds.

I will read the statement on the amendment which I inserted in the CONGRESSIONAL RECORD yesterday.

This amendment places any officer or other representative of a labor organization in a position of trust with respect to any money or other property in his possession by virtue of his position and makes him responsible for it in a fiduciary capacity. In addition it provides that union members may bring a class action in any court of competent jurisdiction for appropriate relief because of any act or omission of an official in disregard of any right or responsibility in his fiduciary capacity.

We all realize that there are many instances when trust funds are set up, and our laws have always protected the beneficiaries of such trust funds. There is nothing in the pending bill which would take care of such a situation in connection with union trust funds.

I am offering the amendment at the request of the Department of Labor, to protect the security of the funds which are contributed by the union members, and to make those who have charge of the funds responsible for them, so that there cannot be a repetition of situations like the one in which Beck was involved, and similar situations, because of which there has been so much scandal.

This amendment would confirm by Federal law the fiduciary responsibilities of persons entrusted with the funds of labor organizations and provide for the enforcement of these responsibilities through representative suits in the Federal or State courts.

S. 3974 explicitly recognizes in its "Declaration of Findings, Purposes and Policy" that it is necessary that labor organizations, employers and officials adhere to the highest standards of responsibility. It further states that because

of breaches of trust and other failures to observe high standards of responsibility and trust, legislation is needed to afford the necessary protection of the rights and interests of employees.

Mr. President, this amendment is in furtherance of that declared purpose. Legislation in this area should go further than to deter acts of wrongdoing. It should also provide a remedy in the event that such wrongdoing does occur. This amendment would provide such a remedy, for, if such acts should occur, under this amendment union members would be insured of the right to bring a class action in an appropriate Federal district court to enforce fiduciary responsibilities for union funds. Of course, this in no way would reduce or limit the responsibilities of union officials under State law or in any way bar any remedy of union members under State law.

It is hard for me to understand why the amendment cannot be accepted as a part of the bill. It is merely a perfecting amendment, to make trustees responsible for union trust funds.

Mr. PURTELL. Mr. President, will the Senator yield?

Mr. SMITH of New Jersey. I am glad to yield to the Senator from Connecticut.

Mr. PURTELL. It appears that there is an area which is not covered by the bill. It is a very vital area, if we wish to establish fiduciary responsibility; and certainly we should want to do that. It is an area which should be covered, and which was discussed in the committee. It is covered by the amendment which has been offered, and of which I am happy to be a cosponsor. As I understand, the President has recommended it.

Mr. SMITH of New Jersey. Yes; it was very definitely recommended. The President feels that this provision should be added to the bill. I have discussed the matter with the Secretary of Labor also. Both of them think that we should add the fiduciary-responsibility amendment to the bill, so that the union member who pays his money will be protected against wrongdoing by the person who has charge of the fund.

Mr. PURTELL. As a beneficiary, he has a right to the same safeguards that other people have. In other words, it is trust money, and the trustees should be responsible, in the event the funds are misused.

Mr. SMITH of New Jersey. It is the same principle.

Mr. PURTELL. It seems to be an area which was not covered, but should have been covered, and the amendment now proposed will cover that situation; and it will give the necessary protection to the workers to which they are entitled.

Mr. SMITH of New Jersey. That is all I am asking for in the amendment.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. SMITH of New Jersey. I yield.

Mr. GOLDWATER. Mr. President, because of my close association with the McClellan committee, and having sat for almost a year and a half listening to the testimony, which prompted the distinguished chairman of the select committee to call for this measure, I am in support of the amendment.

It has been said and said correctly that this bill has many imperfections, omissions, and loopholes.

There can be no question that the bill itself contemplated legislative improvements in areas that it fails to cover. In the declaration of findings, purpose, and policy on page 2, lines 15 and 16, reference is made to the "disregard of the rights of individual employees and other failures to observe high standards of responsibility and trust." It would be expected, therefore, that in this bill there would be a provision dealing with the fiduciary responsibilities of union officers. The recital itself states that supplemental legislation is required in this area. The administration bill contains a provision with respect to the fiduciary responsibilities and the McClellan committee made a special point in recommending that there be legislation with respect to this type of responsibility of union officers. I think, therefore, that the sponsors of the Kennedy bill themselves must concede the omission and accept a provision dealing with the fiduciary responsibility.

I, therefore, support this amendment which would charge union officers or other representatives with a fiduciary responsibility with respect to any property in his custody by virtue of his position as such an officer. The amendment would also authorize class actions by union members to enforce such standards.

Mr. President, in conclusion I should like to say that the amendment offered by the distinguished Senator from New Jersey contains the exact language of the amendment which I now have at the desk.

Mr. SMITH of New Jersey. I thank the Senator. The amendment appears in the CONGRESSIONAL RECORD of yesterday, at page 11003, and is amendment No. 5 on that page.

Mr. President, I should like to ask the Senator from Massachusetts whether he would accept the amendment.

Mr. KENNEDY. I am trying to understand it. I wonder whether the distinguished Senator from New Jersey will continue with his explanation of it.

Mr. SMITH of New Jersey. All I can say is that the amendment was prepared for the purpose of giving trustee responsibility to those who are charged with the keeping of trust funds. That is all it does.

Mr. MUNDT. Mr. President, will the Senator yield?

Mr. SMITH of New Jersey. I yield.

Mr. MUNDT. I was unable to hear the reply of the Senator from Massachusetts. I do not know whether he said he would accept the amendment or would not accept it.

Mr. SMITH of New Jersey. He said he was trying to understand it, and that I should try to make it clear to him.

Mr. MUNDT. Is is in perfect harmony with the purport of the entire bill. It covers a phase which in some manner or other the subcommittee and the whole committee overlooked. It would protect the rank and file members of labor unions against the kind of corruption which has been revealed by the McClellan committee, of which I am a member. Certainly, it would plug up a very big loophole.

Mr. SMITH of New Jersey. I thank the Senator for his remarks. It is a matter which should be covered by the bill. It strengthens the bill; it does not weaken it. It would protect the union member who pays his dues in order to have security of the funds which he will need in his old age.

Mr. MUNDT. Precisely. Because it is in such complete harmony with the purpose of the bill. I hope the committee will accept the amendment. It is incomprehensible to me that they would resist the chance to plug a loophole which, by accident, they failed to cover when they reported the bill.

Mr. SMITH of New Jersey. I thank the Senator from South Dakota.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. SMITH of New Jersey. I yield.

Mr. CURTIS. I commend the distinguished Senator from New Jersey for offering the amendment, and also the distinguished Senator from Arizona for preparing a similar amendment. The amendment is based on the proposition that the officials in charge of these funds are handling other people's money. That is an essential point.

Throughout the hearings of the McClellan committee, we learned of case after case where the union officials were using the assets of the union as though they owned them. It was being done by Dave Beck and a great many others right down the line, including Mr. Valenti and Mr. Klenert, of the textile union. They were spending the union's money as though it were their own. They operated the unions as though they were a proprietary business.

In one instance—I do not recall the names of those concerned—the union bosses fell out with one another; and as each left the union, he was paid a substantial portion of the assets.

The amendment offered by the Senator from New Jersey would end that practice. It would recognize, by law, that the union officials hold the funds belonging to the union members in a fiduciary capacity. The part of the Senator's amendment which gives an individual member a right to sue in behalf of himself and other members is a very fine part of the amendment. It places on the union officials the responsibility for their actions on behalf of the members. The union should exist for all the members; its funds are their property. The amendment will lessen the autocratic role which is so often exercised by the officials of some unions who have not lived up to their obligations as they should.

Mr. SMITH of New Jersey. I thank the Senator from Nebraska most cordially, because I know of his faithful service on the select committee which is making the investigation of labor unions. I am sorry the Senator from Arkansas [Mr. MCCLELLAN] is not here. If he were, I think I am right in saying that he would be in favor of this amendment which is obviously designed to place the responsibility where it belongs and to provide legal safeguards around the officials, who are clearly trustees acting

in the same capacity as a trust company in handling other people's funds.

Mr. CURTIS. We must keep in mind that this is not small business. The annual income from dues is more than $600 million. The reserves in the pension and welfare funds are between $25 billion and $30 billion. The amount is being increased by $5 billion a year. The members of unions are entitled to the same protection as they would have if their money were in a bank, an insurance company, or any other local institution.

Mr. SMITH of New Jersey. Mr. President, I should like to have a vote on my amendment.

Mr. ERVIN. Mr. President, I recognize in full the major motive which prompts the proponents of the amendment. The motive is entirely praiseworthy. But I fear that the amendment would complicate simplicity.

The bill as it is now before the Senate provides full protection, from a criminal law standpoint, of union funds. The bill as reported by the committee makes it a Federal criminal offense to embezzle or steal or misapply funds under circumstances which would constitute a crime. The fundamental trouble with the amendment, despite its praiseworthy motives, is this——

Mr. NEUBERGER. Mr. President, will the Senator yield?

Mr. ERVIN. I should prefer to continue.

Mr. NEUBERGER. I should like to suggest the absence of a quorum, so that more Senators may be present.

Mr. ERVIN. I yield for that purpose.

Mr. NEUBERGER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. PROXMIRE in the chair). Without objection, it is so ordered.

Mr. ERVIN. Mr. President, I have two fundamental objections to the amendment. The first is that it would have a tendency to complicate simplicity. The amendment undertakes to impose by Federal law a trust obligation or a fiduciary obligation upon union officers who handle money. Such obligations are now imposed upon such officers by State laws.

So the first fundamental trouble with the amendment is that it undertakes to impose upon union officers who handle these funds a Federal trust relationship or a Federal fiduciary relationship to the union members; but nowhere does the amendment define what the consequences of such a relationship are under Federal law; and I know of no Federal statute which defines the obligations which rest upon a fiduciary or upon a trustee. Therefore, we would have the creation of a Federal right without a definition of the responsibilities which would go with that right; and that would introduce into the law confusion, rather than protection, in my judgment.

The amendment is unnecessary, because in the 48 States there are already laws which define the duties of trustees and of other fiduciaries. Those laws vary from State to State. While those laws are similar in many respects, they are different in many respects.

So the amendment would introduce into the law a tremendous amount of confusion, in that it undertakes to impose a Federal obligation of a fiduciary nature under a statute which nowhere defines what that obligation is.

The amendment should also be rejected for a second reason. Under existing law the Federal courts have jurisdiction of cases which involve a diversity of citizenship, that is cases between plaintiffs who were residents of one State and defendants who are residents of another. The amendment would confer jurisdiction on Federal courts in all cases under it, regardless of the citizenship of the parties to such cases. Thus there would be imposed upon the Federal courts the jurisdiction of a tremendous amount of litigation which now can be handled, under the State laws, in the State courts, when no diversity of citizenship is involved.

In summary, Mr. President, notwithstanding the praiseworthy motives of those who propose the amendment, I believe it would not add any increased protection insofar as the members of the unions are concerned. This is true because under existing laws in virtually every State the union members now have a right to go into court and request the enforcement, under State law, of the fiduciary relationships, as defined by State law. This amendment would not give them any additional Federal right, because the amendment does not define what the fiduciary right under the Federal law would be. Federal courts can now act in this area under State laws in case of diversity of citizenship.

The amendment would not add any degree of protection, because it does not define the supposed Federal fiduciary obligation.

Therefore, Mr. President, the amendment would complicate the situation rather than be of any assistance.

For this reason and also because the amendment would carry into Federal courts many cases which now come under the jurisdiction of the State courts, I believe the amendment should be rejected.

After all—to paraphrase Aesop's fable—too many tracks already lead to the cave of the Federal Government, and too few of them lead from it. I am not in favor of having any more tracks lead to the Federal cave from which there is no return.

Mr. PURTELL. Mr. President, will the Senator from North Carolina yield to me?

Mr. ERVIN. I yield.

Mr. PURTELL. On page 451 of the interim report of the Select Committee on Improper Activities in the Labor or Management Field—the committee of which the distinguished Senator from North Carolina is a member—we find that one of the committee's recommendations is as follows:

> Since union-dues moneys, as well as health and welfare funds, are in actuality a trust, being held for the members of the union by their officers, the committee feels that attention should be given to placing certain restrictions on the use of these funds, such as are now imposed on banks and other institutions which act as repositories and administrators for trust funds.

Will the Senator from North Carolina point out to me where, in the Kennedy bill, such recommended provisions are included?

Mr. ERVIN. We have previously passed a measure which guards, and provides for the security of, the welfare and pension funds. In the pending measure we provide for the security of union funds, and in this measure there are also provided criminal penalties for misappropriation of those funds.

Mr. PURTELL. Does the Senator from North Carolina mean that provision has already been made for punishment which can be meted out to those who abuse the funds? But where in the Kennedy bill is provision made for the particular committee recommendation I have just read?

I shall repeat a part of the recommendation, namely—

> certain restrictions on the use of these funds, such as are now imposed on banks and other institutions—

And so forth.

Mr. ERVIN. That is the trouble with the amendment, because it does not define the obligations which would be created under it; it leaves them exactly as they are now under State law.

Mr. PURTELL. Then does the Senator from North Carolina mean to state that this recommendation of the committee has not been carried out?

Mr. ERVIN. Section 108 of the bill provides:

> Any person who embezzles, steals, or unlawfully and willfully abstracts or converts to his own use or the use of another any of the moneys, funds, securities, property, or other assets of an organization which is exempt from taxation under section 501 (a) of the Internal Revenue Code of 1954 of which he is an officer or by whom he is employed directly or indirectly shall be fined not more than $10,000, or imprisoned for not more than 5 years, or both.

Mr. PURTELL. That section will punish a transgressor. But what protection does the bill give to a beneficiary of the fund?

Mr. ERVIN. The proposed amendment does not give him any protection except what he already has under existing law—in other words, under State laws, which vary from State to State. They define these obligations. But this amendment does not define what obligation would rest, under Federal law, on such a man as a fiduciary; and no existing Federal statute defines that obligation.

Mr. PURTELL. May I point out to the Senator that in the debate prior to the time we started to take up this amendment it was my understanding we were concerned with getting uniformity, and therefore getting at the Federal

level. This does provide uniformity, does it not?

Mr. ERVIN. No. Nowhere in the amendment—and this is one of the fundamental objections I have to it—does it undertake to define in any respect what obligation is imposed upon a fiduciary or upon a trustee by Federal law. The amendment attempts to give a man a right which is not defined, and nobody will know what the right is.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. ERVIN. I yield.

Mr. CURTIS. Will the Senator agree that there is a great body of case law which defines what is proper conduct for the fiduciary?

Mr. ERVIN. I agree that not only is there a great body of State law which defines the obligations of a fiduciary, but there is a great body of statutory law—that is, laws of the States, not of the Federal Government. Those laws vary from State to State, and the statutes vary from State to State.

Mr. CURTIS. The amendment does not take away from any union member any right he has under State law.

The Senator from North Carolina is a member of the McClellan committee. For months we sat in the committee and heard stories about misuse of funds, about borrowing of funds, about entering into transactions in which officers, as parties, were in a position to gain. Does the Senator know of any case where the members have been told to sue in their own behalf, and in behalf of others so situated, to hold the officers accountable?

Mr. ERVIN. Under the case law of virtually every State in the Union of which I have knowledge, they can do that now; but I should like to ask the Senator from Nebraska this question: When one brings a suit, under this proposal, to enforce a Federal fiduciary right, is the Court going to determine his right by the law of North Carolina, by the law of Nebraska, by the law of California, or by the law of some other State?

Mr. CURTIS. There is not very much difference in the laws as to what is proper conduct of a fiduciary.

Mr. ERVIN. There is a difference with respect to investment of funds. Every State has statutes providing how such funds can be invested, and those laws vary from State to State.

Mr. CURTIS. We in the committee have had our attention called to cases in which a member has proceeded against union officers for an accounting of funds, or similar action. The member has been expelled from the union or has been beaten because he did not go through the channels of the union; and the channels of the union are usually dominated by the offenders in those particular cases.

The pending amendment declares, as a part of the Federal law, that where questions of jurisdiction arise, the laws pertaining to a fiduciary position apply to union officers. I believe it is a good amendment.

Mr. ERVIN. I might possibly agree with the distinguished Senator from Nebraska if the proposal undertook to define what the duties of a fiduciary or a trustee are under Federal law, but it does not undertake to do so, and, so far as I know, there is not a single Federal statute in existence which undertakes to do that. So the proposal introduces confusion, chaos, and uncertainty.

Mr. PURTELL. Mr. President, will the Senator yield?

Mr. ERVIN. I yield.

Mr. PURTELL. I did not quote the whole passage and I think I should have, when I referred to the McClellan interim report, of which the Senator was one of seven who signed.

I am sure the Senator will agree with me that there have been no Federal laws in this field enacted between the time the Senator signed the report and today. There may have been some changes in State law, but they would not be effective in the matter to which we are addressing ourselves.

Let me point out to the Senator what the committee really recommended, and which we certainly are charged with trying to carry out.

The committee said this, and I read from page 451 of the interim report of the McClellan committee:

> The committee recommends that Federal legislation be enacted closing up the present loopholes.

The paragraph goes on to speak about trusts and union dues. The committee itself recommended that Federal legislation be enacted. That is exactly what we are trying to do.

May I ask the Senator if any attempts have been made by the committee, in view of the fact that objection has been made to the proposal offered, to propose legislation to follow out the recommendations of the committee?

Mr. ERVIN. Will the Senator tell me to which committee he is referring, because there are two committees involved?

Mr. PURTELL. I am referring to the McClellan committee.

Mr. ERVIN. The McClellan committee did not interpret its authority to include the introduction of specific proposed legislation. It felt that matter was left, under the resolution, to the jurisdiction of the Committee on Labor and Public Welfare.

Mr. PURTELL. We tried to do it.

Mr. ERVIN. The trouble with this amendment is that it does not undertake to adopt any language defining the term "fiduciary," or to carry out the recommendation of the committee, but undertakes to give a person a Federal right of action without defining the terms under which he enjoys that right of action and what that right of action is.

Mr. PURTELL. Is the Senator correct in interpreting the desire of the committee as wanting Federal legislation in this field?

Mr. ERVIN. I think it would be helpful if we had Federal legislation in proper form.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. ERVIN. I yield.

Mr. KENNEDY. Since we are interpreting the language, I wish to refer to the recommendations of the McClellan committee as contained in the interim report:

> The committee recommends that Federal legislation be enacted closing up the present loopholes in the law concerning the filing of these financial statements.

That has been done in this bill.

> It further recommends that these financial statements be required to be accurate and complete—

That is done in the bill—

> that there be a method for the checking of their veracity—

That is provided in the bill—

> and provisions for bringing legal action against unions filing false statements and against the officers of the unions testifying to these false statements.

That is provided in the bill.

> The committee feels there should be a provision in the law making it a Federal crime, punishable by a prison sentence, for the willful filing of a false or incomplete financial statement.

That is provided in the bill. The recommendation goes on to say:

> Since union-dues moneys, as well as health and welfare funds, are in actuality a trust—

Which I believe they are—

> being held for the members of the union by their officers, the committee feels that attention should be given to placing certain restrictions on the use of these funds, such as are now imposed on banks and other institutions which act as repositories and administrators for trust funds.

As I gather and interpret that statement—and I signed the report, and so did the Senator—the committee is suggesting that we should consider the advisability of stating that certain kinds of investments of union funds should be permitted, and certain kinds should not be permitted; in other words, that union funds might be invested in bonds, but not in common stocks. It does not say anything about applying to Federal law fiduciary standards which exist for union officials under State law.

Mr. PURTELL. Where in the bill is there a provision restricting the use of funds?

The PRESIDING OFFICER. The Senator from North Carolina has the floor.

Mr. ERVIN. There is a great deal of difference in the laws of the States defining obligations of fiduciaries with reference to handling funds and with reference to investing funds, both in the character of the investment and the extent of the responsibility.

The amendment which has been proposed would undertake to give a right without a definition of the nature and the extent of the right, or a definition of the nature and extent of the responsibility upon which the right rests. The amendment would introduce confusion, rather than any salutary regulation of the matter.

Mr. PURTELL. I should like to make an inquiry of the Senator. I wonder in what way this recommendation has been carried out, since it was recommended that attention should be given to the placing of certain restrictions on the use of these funds, such as are now imposed on banks and other institutions.

Mr. ERVIN. The provisions of this and the previous bill include restrictions on the use of these funds for personal pleasure or personal profit. There have been regulations prescribed, as the Senator from Massachusetts pointed out a while ago, with reference to accountability for funds and the filing of reports. There have been a great many things done with reference to this matter in the previous bill. Furthermore, I think the pending bill gives full protection to these funds in its present form.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. PURTELL. May I point out to the Senator that is simply disclosure.

Mr. ERVIN. I yield to the Senator from Massachusetts.

Mr. KENNEDY. I say to the Senator that we are trying to write a law. I do not think it should be so altered by the amendment that we should try to say unions should be permitted to make certain investments and not other investments. It seemed to us in the committee it would be much better to provide for satisfactory disclosure. That is what the bill provides, in addition to providing prohibitions as to expenditures by union officials.

Mr. PURTELL. Mr. President, will the Senator yield to me?

Mr. ERVIN. I yield.

Mr. PURTELL. The proposed amendment would give an additional protection to the funds by imposing a fiduciary responsibility upon those who manage the funds, and providing that if there is abuse there can be a recourse to the courts and a recovery by the beneficiaries of the funds.

Mr. ERVIN. The trouble is that the language does not define what the fiduciary obligation is. At present people handle funds for others under fiduciary obligations, but the fiduciary obligations are defined by the laws of the 48 States and are nowhere defined by any Federal law.

Mr. PURTELL and Mr. ALLOTT addressed the Chair.

The PRESIDING OFFICER. Does the Senator from North Carolina yield; and, if so, to whom?

Mr. ERVIN. I yield first to the Senator from Connecticut, and then I shall yield to the Senator from Colorado.

Mr. PURTELL. I should like to point out to the Senator there is not a single prohibition pertaining to the expenditure of union funds in the committee bill.

Mr. ERVIN. There are a great many provisions with respect to the use of the funds in the bill, and also——

Mr. PURTELL. Would the Senator point them out? The bill only provides for reporting, for disclosure, and for penalties to be imposed upon the individual who violates the law after the money is gone.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. ERVIN. I yield to the Senator from Massachusetts.

Mr. KENNEDY. I will say to the Senator that the bill provides for a very clear disclosure. The money belongs to the union members. The bill provides that, if any improper practices are engaged in, if there are any excessive loans of the type revealed by the McClellan committee, or any procedures such as that, they must be reported and must be disclosed to the Secretary of Labor. As a result of the amendments which we have accepted in the past 24 hours, that information will be made known to the members of the union. That seems to me to be the most effective way of handling this rather sensitive problem, rather than attempting to say, "We will permit union funds to be invested in A, but we will not permit union funds to be invested in B."

As the Senator from North Carolina pointed out, there are very clear remedies in the State courts.

Mr. PURTELL. I disagree with the Senator. I might suggest there is small satisfaction in discovering that the funds are gone, when one learns the information from a report filed subsequent to the disappearance of the funds.

Mr. ALLOTT. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from North Carolina yield to the Senator from Colorado?

Mr. ERVIN. I yield to the Senator from Colorado.

Mr. ALLOTT. I should like to ask the Senator how he reconciles his point of view with his votes upon S. 2888. When S. 2888 was before the Senate, one of the major arguments which was considered at great length was whether a fiduciary responsibility should attach to the employers who handled the funds in the case of employer managed funds. We did, upon that basis, place a fiduciary responsibility upon them. The Senator may go through the whole RECORD and look at it. We placed a fiduciary responsibility upon the employers who manage the funds, which they solely contribute, and to which the unions and the employees do not contribute 1 cent.

The Senator from North Carolina voted the same in every instance. The Senator did not vote for one amendment to that bill. If I recall correctly, the Senator from North Carolina voted in every instance to place upon employers a fiduciary responsibility, when the only funds they were handling were the funds they themselves had put up entirely. The Senator voted to put a fiduciary responsibility on the employers with relation to the employees.

How does the Senator justify dodging the fiduciary responsibility when it is the money of the union members themselves which is being taken and handled by union officers? Does the Senator only want to place some other responsibility on them?

Mr. ERVIN. In the bill to which the Senator refers obligations were placed upon those employers who were managing the welfare and pension funds for unions, and obligations were also placed upon unions which were handling those funds, and obligations were also placed upon a combination of management and unions handling those funds, which obligations were spelled out and consisted simply of requiring them to keep those funds safely, and to make reports about the funds.

Mr. ALLOTT. May I ask the Senator to yield further. The Senator is mistaken. The provisions go far beyond that. The employers not only have to report to the unions—this is not true with respect to all the funds—but also, as to many of the funds, the unions do not put up 1 cent of the pension fund, which is provided by the employer.

Mr. ERVIN. I did not say who put up the money.

Mr. ALLOTT. Wait a minute. The situation is that in many instances the unions did not put up 1 cent, yet with respect to S. 2888 the Senator from North Carolina voted for every amendment—

Mr. ERVIN. No; I did not. I voted against several amendments.

Mr. ALLOTT. The Senator is exactly correct. The Senator voted against every amendment.

Mr. ERVIN. Yes.

Mr. ALLOTT. The Senator voted against every amendment. If I am wrong I should like to be corrected. The amendments were to place upon the employer of employer-managed funds only a contractual relationship.

Yet, tonight, with respect to funds put up wholly not by the employer but by the union men, from their own money—taken out of there grocery money, taken out of the shoe money for their children—the Senator does not want to have a fiduciary relationship, although the Senator voted 3 or 4 weeks ago for that relationship as to funds which were contributed and managed solely by the employer. Let the Senator answer that.

Mr. ERVIN. I do not understand what I am to answer. I understood the Senator to say at one time that I voted for all the amendments, and now the Senator says I did not.

Mr. ALLOTT. I said the Senator did not vote for any amendments.

Mr. ERVIN. If I could understand the question I would answer.

Mr. President, I did not say anything about where the funds came from. I said that we passed a bill to give security to welfare and pension funds, and we put certain obligations on the managers of those funds—not to misapply those funds, and to file certain reports—regardless of who those managers were and regardless of the source of the funds. That is all we did. Those were the obligations which were imposed; not to misapply the funds, and to give due reports.

There was an effort made, as I recall, to write an amendment into the bill to specify, as in the case of banks and trustees handling funds under State law, how those funds should be invested.

The trouble with this proposal is that it is an attempt to impose complete fiduciary and trustee responsibilities under Federal law upon persons, without ever defining what the Federal responsibilities are.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. ERVIN. I yield.

Mr. KENNEDY. I think the Senator from Colorado should show us the language which the Senator from New Jersey has offered as it appears in S. 2888.

Mr. ALLOTT. I will show it to the Senator in the RECORD.

Mr. KENNEDY. Can the Senator show the language to us in the bill?

Mr. ALLOTT. I will show the Senator.

Mr. KENNEDY. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator from North Carolina has yielded to the Senator from Massachusetts.

Mr. KENNEDY. The Senator from Colorado has been extremely critical of the Senator from North Carolina for voting, in the case of Senate bill 2888, for fiduciary standards with respect to union welfare funds. Then the Senator from Colorado takes issue with the Senator from North Carolina for failing to include the same language in this bill. I ask the Senator from Colorado if he will tell me where the language of the Senator from New Jersey is to be found in Senate bill 2888?

Mr. ALLOTT. Mr. President, will the Senator from North Carolina yield to me to answer that question?

Mr. ERVIN. I yield for that purpose.

Mr. ALLOTT. Of course, the language of the Senator from New Jersey is not in Senate bill 2888; but if the Senator from North Carolina was on the floor during the consideration of Senate bill 2888—and I am sure he was—he will remember that a great deal of the discussion centered around upholding Senate bill 2888 upon the basis that it imposed a fiduciary relationship upon the employer.

There can be no doubt about this; and if it has to be documented later, we will get out the RECORD and show that that is true.

If the Senator does not wish to impose a fiduciary relationship upon a labor leader who collects funds and fees from his fellow workers and still upholds the principle and theory of Senate bill 2888, as shown in the report of the committee, and in the bill; and if the RECORD on this floor was based upon the fact that the employer was in a fiduciary relationship, if the Senator does not wish to place that burden upon an employee when he is collecting the funds of his fellow employees, that is really a peculiar standard to apply to these bills.

Mr. ERVIN. The Senator from North Carolina never voted to make law out of all the words in the CONGRESSIONAL RECORD. Neither did the Senator from North Carolina ever vote to make law out of all the words in a committee print.

The Senator from North Carolina is not objecting to establishing a fiduciary relationship with respect to those who handle union funds. That obligation is already placed upon such persons by the laws of the 48 States, which vary from State to State.

What the Senator from North Carolina is objecting to is an amendment which attempts to create a civil right of action under Federal law for violation of a supposed Federal fiduciary duty, which is nowhere defined by Federal law, and certainly is not defined in this amendment.

Mr. MUNDT. Mr. President, I have been listening to the discussion relative to the Smith of New Jersey amendment because it deals with a subject which has greatly concerned the McClellan committee. I happen to be a member of that committee, as is the distinguished Senator from North Carolina. But I become a little bewildered by the way we twist the argument about States rights around on the floor of the Senate to fit our peculiar viewpoint in connection with this specific piece of legislation.

A few minutes ago the Senator from North Carolina voted against the Watkins amendment on the theory that it would tend to provide for the States doing something now done by the National Government. Now we see the reverse side of the coin, because the Senator from North Carolina tells us—and correctly—that there are State laws dealing with this subject. Of course there are State laws dealing with this subject.

Mr. ERVIN. Mr. President, will the Senator yield to me? He has used my name.

Mr. MUNDT. I am happy to yield to the Senator from North Carolina.

Mr. ERVIN. The Senator from South Dakota says that I voted against the Watkins amendment. I voted against the Watkins amendment. I also voted against the substitute offered for the Watkins amendment by the distinguished senior Senator from New York [Mr. IVES]. I took this course for this reason: The floor of the Senate is no place to write a bill of this kind. A serious question was raised by the amendment and the substitute, a question that should be studied by the Senate for at least a week before we legislate. I did not know enough about the subject to legislate about it on the Senate floor, and suspect that some other Senators were in the same state. I felt that we should not legislate on the spur of the moment on the floor of the Senate. That is the reason why I voted against the amendment.

Mr. KNOWLAND. Mr. President, will the Senator yield to me in order that I may ask for the yeas and nays on the pending amendment?

Mr. MUNDT. I yield for that purpose.

Mr. KNOWLAND. I ask for the yeas and nays on the pending amendment.

The yeas and nays were ordered.

Mr. MUNDT. Mr. President, I am happy to have the explanation of my distinguished friend from North Carolina as to why he voted against the Watkins amendment and against the Ives substitute for the Watkins amendment. I am not here as a clairvoyant or mind reader. If he honestly believes that the great Senate of the United States does not have the legislative capacity to act on this question on the floor of the Senate, that is a valid point of view, to which he is entitled. I do not agree with him. I believe that this is the greatest legislative body in the world. Some of the most important legislation enacted by the Congress has been written on this floor. I have faith enough in Members of the Senate to believe that we can dedicate ourselves to a legislative proposition and come up with a good answer. But I respect the point of view of the Senator from North Carolina, although I differ with him.

I would feel much more convinced if the Senator from North Carolina were to resist the so-called Smith amendment because of his lack of confidence in this body to legislate intelligently on this floor than I am convinced by the argument which he presented.

It seems to me that one thing stands out as clear as a path to the country schoolyard. I refer to the fact that every single discrepancy, every single violation, every single raid made by a union official upon the dues of rank-and-file members, has been made while the State laws about which the Senator from North Carolina spoke so eloquently were on the statute books of the respective States.

Obviously, therefore, we face a challenge to try to do something to correct the situation existing with respect to State laws.

The Senators who sponsor this amendment provide what seems to me to be a very effective and moderate move in the direction of protecting the rank-and-file dues-paying union members in their right to the money taken from them by union officials.

If the Senator from Michigan [Mr. MCNAMARA] were to rise and undertake to disavow the McClellan committee report, I could understand it. It was issued by a vote of seven to one. The Senator from Michigan voted against it. But my good friend from North Carolina, along with all the other distinguished members of the committee, voted in favor of the interim report. To disavow it now comes a little late.

Let me say a few words about the basis on which we reached our conclusions. On page 5 of the interim report we list a long series of defalcations on the part of union leaders. We list them ad infinitum and ad nauseam. There they are—one instance after another of violations of the trust relationship between the union leaders and union members, occurring as of now, with every State law mentioned by the Senator from North Carolina on the statute books.

Financial safeguards have been woefully lacking.

So said the Senator from North Carolina. So agreed the Senator from South Dakota.

Financial reports to rank-and-file members have often been false, sketchy, and even in these forms largely unavailable for perusal by the membership.

On that point the Senator from North Carolina and the Senator from South Dakota are in complete agreement.

Union officials have engaged in the habit of dealing in cash rather than by check. They have failed to submit vouchers for many expenditures, and when vouchers have been turned in they have frequently been false or only vaguely explanatory.

All seven of us agreed on that point—all members of the committee save only the distinguished Senator from Michigan [Mr. MCNAMARA].

Union officers charged with responsibility for disbursements have often signed checks

in blank for their superiors, with no knowledge of or request for information as to the purpose for which the funds were drawn.

One union leader testified that he had a check-writing machine in the office, and he simply left it there so that his secretary could write checks for the benefit of his friends who came to the office.

A few months ago, all of us, except only the Senator from Michigan issued a report which said we should call such practices to the attention of the appropriate legislative committee, so that it could propose legislation; or, if such committee failed to do so, that the Senate would have the capacity to write a bill dealing with an ugly situation like that.

We said also:

(e) With these incredibly loose practices, the misuse of union funds, including outright thefts and "borrowings" for personal profit, has totaled upward of $10 million in union-dues money—an average of $5 out of the pocket of every member of the unions covered in this report.

That was $10 million dishonestly utilized by union officials, and the money was collected from union members, while the State laws, of which we hear so much, were on the books. Question? Since the legislative committee did not propose any legislation on this point, since they now display a strange reluctance to accept it, what are Senators going to do? Are they simply going to say, "We do not have the capacity to pass a law on this subject?" Are they going to say, "We are going to vote in favor of the union leaders who have been dishonest?" Or are they going to say, on the forthcoming rollcall, "We will vote to protect the interests of the dues-paying working men and women of America against this kind of corruption?"

Proceeding to the next item in the interim report:

(f) Even in the case of publicized gifts to union officials, the recipients have not declared them for income-tax purposes, while the donors (frequently employers) have written them off as deductible business expenses.

Fresh from our hearings on this unsavory subject, we all agreed that this matter should be called to the attention of the Senate, in the hope that in 1958 we would legislate to fill the vacuum left by the State laws which are now extant, in order to provide safety, security, and protection for the rank-and-file union members, who will not get it if Senators knuckle under to the union leaders on this vote, instead of voting for the union members.

Only the Senate tonight can determine whether we will protect the honest working men and women of the country, who in many cases have no choice but to belong to a union in order to earn a living for their families, by providing some safeguards against the thievery and skullduggery indulged in so unhappily—not by all the union leaders, by any means—by the dishonest few union leaders against whom legislation should properly be aimed.

There is another item:

(g) Destruction of financial records and canceled checks has been rife, often coincidentally with the approach of committee investigators.

I suspect that those who can destroy the records will probably be able, for a while, to make reports which are far from the fact; and it will be a long, slow process, if reliance must be placed simply on the reports to the Secretary of Labor of what is happening to the financial transactions, before the union men and women will get the protection they need.

(h) Union officials have received flat expense allowances often in excess of demonstrated needs. Even in the absence of evidence that these moneys were used for legitimate union purposes, they were not recorded as income in the filing of tax returns.

Where did the money come from? From the dues-paying members. How are we going to stop it? By the Smith amendment. How are we going to perpetuate these steals? By voting against the Smith amendment, and by leaning on the weak reed called our present State laws, which failed so cataclysmically that we have had to establish the McClellan committee and have had to make the report to the Senate based on the facts. It is as clear as that.

We are not living in a dream world. We are not arguing about theory. This has been happening even while the State laws have been on the books.

Tonight is our chance to demonstrate whether we will enact legislation effectively to protect—not management, not employers, not the general public, but the rank-and-file dues-paying members of America, who are just as good Americans as anyone of us, and who are just as much entitled to have the money they earn, as any of us, but who, unhappily belong to an organization which they cannot control, and in which they are unable to protect their interests without proper legislation being enacted by Congress.

That is not all. The Senator from North Carolina [Mr. ERVIN], the Senator from South Dakota, the Senator from Arkansas [Mr. MCCLELLAN], the Senator from New York [Mr. IVES]—all of us, except the distinguished Senator from Michigan [Mr. MCNAMARA]—on that happy day signed the report, almost unanimously, calling upon Congress to act. Here we are. Here is the amendment. Someone heeded the call for action. What are we going to do when the roll is called?

This is what we said next:

(i) Loans of union funds have gone to favored officers when no such opportunities have been available to rank-and-file members. Union loans have also been made indiscriminately to corporations, to personal friends of union officials, and to individuals of low repute unable to obtain credit from banks and lending institutions.

Mr. President, I remember distinctly asking one of the union presidents one day, when he said they had a system by which they would lend money with collateral and without interest to all the members of the executive committee, "Where did you get the money?"

He said, "It comes from union dues."

I said, "That is a very interesting bank you operate. Do you make these loans available only to members of the executive committee, or are they available also to some poor workingman whose wife is in the hospital and who is short of money with which to pay the doctor's bill? Can he get such a loan?"

First he answered "Yes."

I said, "That is wonderful. We are on television. We are on radio. You say you have a hundred thousand members. That is the best news these 100,000 members have heard in a long time. Say it again."

He would not say it again.

I said, "I will say it for you." I said, "This is good news, members of the union. Your president says that anyone of you can come to him and get a loan, in the same way he got his. You can get a loan from your union fund, without collateral and without interest."

He said, "No, no; that is not exactly right."

Then he had to admit under oath that only the officers of the union, and only the members of the executive committee, could obtain money from this strange and generous bank, which loaned money without interest and without collateral.

This is the kind of thing the Senator from New Jersey [Mr. SMITH], the Senator from Connecticut [Mr. PURTELL], the Senator from Colorado [Mr. ALLOTT], and the other authors of the amendment propose to eliminate. This is the kind of thing the McClellan committee suggested Congress meet legislatively. It was this problem, unhappily, which the Senate legislative committee overlooked. It is on that issue that we shall vote "yea" or "nay," on a rollcall which will be open to public inspection, as it should be.

That is not all, Mr. President:

(j) Tax-exempt union funds have been used to bring profit either to the union or to its officials in sharp violation of the laws governing tax-exempt organizations. As pointed out to the Senate Permanent Subcommittee on Investigations, the Internal Revenue Service at least when the committee's investigation began, did not check on union funds to determine violations of the tax-exemption statutes.

And so it goes.

In conclusion, therefore, very properly it seems to me, in our recommendations, we urge Congress to enact legislation on this subject. We said, almost unanimously:

This type of legislation—

Referring to proposed legislation like the Smith amendment now before us—

This type of legislation, in the committee's opinion, would go a long way toward preventing wholesale misappropriation and misuse of union funds such as that disclosed by committee testimony.

That is what we said. What did the Senate Committee on Labor and Public Welfare say? What does the committee say in its sales talk on its bill, in its own report issued by its subcommittee chairman, the Senator from Massachusetts [Mr. KENNEDY]? What did they say in making the presentation to the country that this is a good bill; that it meets the problems involved; that the Senate should vote for it, I suppose, without dotting an "i" or crossing a "t," despite

the fact the members of the committee themselves, in vote after vote, have joined unanimously in adding amendments and correcting their bill which badly needed correction when it came from the committee?

What a happy day it is that all Members of the Senate do not feel that as a legislative body we are unable to enact legislation or cannot improve the bill. We have given the members of the committee a chance to vote with us unanimously in yea-and-nay votes in order to improve the bill which the committee reported. I do not condemn the committee for that. The chairman was honest. He said it was necessary to report the bill in a hurry; that the committee was aiming at a date; that it had a target date of June 10. I commend the committee for meeting the deadline. They are here. I have enough respect for my fellow Senators to believe that any inadequacies can be corrected.

But what did they say in their committee report stump speech? I quote now, not from the report of the interim committee; I quote from the report of the legislative committee, page 5:

Labor unions belong to the members.

I agree. There has not been an amendment offered which spelled that out more eloquently than the Smith of New Jersey amendment. That amendment points out and proves that the unions belong to the members. It provides the means for the members to recoup from the union leaders moneys which the union leaders have misappropriated. But the committee was not content. In its enthusiasm it went further than that. It said:

A union treasury should not be managed as the private property of union officers.

I agree. They put it even better than the McClellan committee did with our 7-to-1 vote. Let me read that again. It is a text for the vote we are about to take. It would seem that the committee must have had in mind the Smith of New Jersey amendment when they made this part of the sales talk:

A union treasury should not be managed as the private property of union officers.

If I understand the English language, the Smith amendment is the way to spell out that doctrine legislatively. The Smith of New Jersey amendment does that. The amendment says that a union treasury does not belong to the union officers; and that if it is used in that way, the union members are provided with a device, with a technique, with a procedure, with a modus operandi, with a legal process by which they can haul the union leaders into court. The Smith of New Jersey amendment is the answer to the committee's plea at the time they were writing the committee report.

The committee report says even more. It says:

A union treasury should not be managed as the private property of union officers, however well intentioned, but as a trust fund.

I call to the attention of the committee which now seems so reluctant to accept an amendment which carries out the plea which they wrote into the report that the amendment contains the language which makes such union funds trust funds. This is the language which protects the trust fund. This is the language which makes valid the statement that the money should be considered as a trust fund governed by fiduciary obligations.

There it is, Mr. President. I suspect that I waste my words.

Where could we find a more eloquent, persuasive endorsement of the Smith of New Jersey amendment than in the committee report? The committee wrote those words. What has happened since then to change their minds, I do not know. It looked for a while tonight as though the committee would accept this amendment. I suspect they have changed their minds, despite the fact that the language of the amendment is in such close harmony with the report. But I hope that, when the vote comes, they will vote for the amendment, because it does precisely what their report states should be done in cases of this kind.

This is not a complicated amendment. It spells out very clearly what it purports to do. It does not contain a mass of technical legislative language about responsibility and the fiduciary position of the officials of the union; but it makes extremely clear when they are out of order. One does not have to be a Harvard graduate to understand the language of the amendment on lines 3, 4, 5, and 6, on page 2. The language reads—and it is as simple as this:

In any labor organization to which the provisions of title I apply, the individual workers who have combined as members to form or maintain such organization * * * have the right to have any money or other property which the organization acquires as a direct or indirect result of their financial contributions, or of their having formed such an organization, conserved for their benefit and not applied, invested, disbursed, or disposed of in any manner or for any purpose not authorized by the constitution, bylaws, or other rules of the organization to which they have agreed.

The amendment places the responsibility for the management of these funds on the officials. They are not to apply, invest, disburse, or dispose of them in any manner or for any purpose not authorized by the constitution of the union.

"Constitution" is a good, old-fashioned American word. We can all understand it.

"Bylaws." Every women's club has a constitution and bylaws. We know what that means.

"Or other rules of the organization to which they have agreed." The language of the amendment is as specific as that. It is as clear as that. It says that no officer has any right to utilize any funds the use of which is not authorized by the constitution, the bylaws, or the rules of the union organization.

If he does, what will happen? If he should violate that obligation, which would become a Federal law and a Federal standard, with no ambiguity whatsoever, the union member who is being robbed or ransacked—any member of the labor union—could go into court and demand an action in order to be sure that his rights were protected.

Mr. President, this is not a complicated amendment. I am convinced that the Senate is well able to legislate on language as simple as this and to arrive at a pretty good opinion. It is not so complicated as to be necessary to call in constitutional lawyers and to hold extensive hearings. The amendment carries out faithfully and magnificently what the Committee on Labor and Public Welfare itself said, on page 5 of the report, it was trying to do. It carries out also the recommendations of our McClellan committee. I certainly hope that in the forthcoming vote we will not make a travesty of that report or a travesty of that great expression of good intentions, but that we will provide for the union man this additional right.

I call attention, in conclusion, to the bottom of page 3 of the amendment, which reads:

Nothing in this section shall reduce or limit the responsibilities of any officer, agent, or other representative of a labor organization under the law of any State.

Does any Senator have confidence that the State laws are sufficient, despite the fact that they failed so completely that the disclosures of the McClellan committee concerning the State laws had to come after the fact?

Well, if Senators have such confidence, they can keep it high. Nothing is lost, because the last part of the section reads:

Nothing in this section shall reduce or limit the responsibility of any officer, agent, or other representative of a labor organization under the law of any State, and nothing in this title shall take away any right or bar any remedy to which members of a labor organization are entitled under the law of any State.

This is an additional safeguard. It sacrifices nothing. It destroys nothing. It invalidates nothing. It supersedes nothing. It eliminates nothing. It moves into a vacuum and provides something in addition to protect the working men and women of America.

The amendment should be adopted unanimously in the forthcoming rollcall vote.

Mr. GOLDWATER. Mr. President, I support the amendment, as I said earlier, I have a similar amendment at the desk, but I have yielded to the Smith of New Jersey proposal.

I call the attention of the Senate and especially the members of the select committee, the McClellan committee, with whom I have served for almost a year and a half, to some of the costs of this committee to the people of the country.

The committee has held 146 days of public hearings. It has taken the testimony of 715 witnesses. The record of the hearings is spread across more than 25,000 pages of original transcript.

The members of the committee staff have traveled more than 700,000 miles and have conducted approximately 18,000 interviews with prospective witnesses in 44 of the 48 States.

In addition, our accountants have examined thousands of accounts, records, and files both of labor organizations and business enterprises.

To date, the committee has received, analyzed, and screened considerably in ex-

cess of 100,000 letters. More than 75 percent of these came from labor union members or members of their families. From these letters we have received valuable leads and much important information. Unfortunately, the committee has not been, and never will be, able to investigate all the charges these communications contain. From them, however, and from the testimony before us, an unhappy and tragic story has unfolded.

Mr. President, those were the words of the distinguished chairman of the committee, the senior Senator from Arkansas [Mr. McCLELLAN], when he appeared on the Manion Forum as recently as June 1 of this year.

According to the records of the select committee, taxpayers' dollars in the total amount of $744,720.35 have been spent. But, Mr. President, as a Member of this body and as a United States citizen, I do not feel that that money has been misspent, if the findings are applied to the development of proper legislation. That suggests the question which comes to my mind at this moment, in this day of Senate history. We have amassed some 25,000 pages of testimony. Now the precise question is, What are we doing with the knowledge thus obtained?

Mr. President—and I call this point to the attention of my brethren on the select committee, and I see that 4 of us, as well as 1 former member, are in the Chamber at this time; and I may say that the former member, my good friend, the Senator from Michigan [Mr. McNAMARA], is the only one of us who has a right to talk in the way that my good friend, the Senator from North Carolina [Mr. ERVIN], has been talking, because the Senator from Michigan is the only member of the committee who disagreed with the findings—I want to commend to my brethren on the committee what we said when we signed our names to the interim report. I realize that reports are not the holiest of things; nevertheless, this report meant something when we signed our names to it, and it will go down in history as far as reports go. I read from the legislative recommendations which appear at the end of the report, beginning on page 450:

LEGISLATIVE RECOMMENDATIONS

The United States Senate Select Committee on Improper Activities in the Labor and Management Field recommends that the Congress of the United States give attention to the passage of legislation to curb abuses uncovered in five areas during our first year of hearings.

These recommendations are—

1. Legislation to regulate and control pension, health, and welfare funds;

2. Legislation to regulate and control union funds.

Mr. President, let me turn from that recommendation to the second paragraph on the bottom of page 451; and there we find, among the recommendations to which we signed our names—

Since union-dues moneys, as well as health and welfare funds, are in actuality a trust, being held for the members of the union by their officers, the committee feels that attention should be given to placing certain restrictions on the use of these funds, such as are now imposed on banks and other institutions which act as repositories and administrators for trust funds.

That is very plain language; and it is not difficult for anyone to understand. What we recommended to this body, after we had spent nearly $1 million and after we had amassed 25,000 pages of testimony, was that the Senate should do precisely what is suggested by the amendment of the Senator from New Jersey and, I suggest, what the language of the report on the committee bill suggests be done.

I read further from the legislative recommendations of the select committee, as contained in its interim report:

3. Legislation to insure union democracy;

4. Legislation to curb activities of middlemen in labor-management disputes;

5. Legislation to clarify the no man's land in labor-management relations.

In respect to the fifth recommendation, let me read, from page 453, what the committee recommended to the Senate in the interim report:

To solve the no man's land problem, therefore, it is recommended that the NLRB should exercise its jurisdiction to the greatest extent practicable, and, further, that any State or Territory should be authorized to assume and assert jurisdiction over labor disputes over which the Board declines jurisdiction.

Mr. President, a simple conclusion comes to my mind, and I am sure it has come to the minds of other Members of the Senate, and I am certain that it is coming to the minds of people across the Nation. Tonight, by legislative action, the Senate already has stated specifically that it will not adopt one of the recommendations of the McClellan committee. The Senate is now in the throes of coming to a vote on the question of whether it will adopt the specific language, or nearly the language, and recommendation of that committee in another field.

Mr. President, as we approach our decision on this point—and let me say that it is with great reluctance that I make this statement; I was hoping that I would not have to make it—if we continue to ignore the recommendations of the senior Senator from Arkansas [Mr. McCLELLAN] and the recommendations of the select committee, as made by it after it held hearings over a period of 1½ years, after which it made specific recommendations in this field, I am afraid that I am coming to the conclusion that there may have been some validity to the suggestion which was made by my good friend, the Senator from Oregon [Mr. MORSE], and by my good friend, the Senator from Michigan [Mr. McNAMARA], namely, that this committee may have outlived its purpose.

The purpose of Congressional standing committees and select committees is to propose the enactment of specific legislation. But I am afraid that the Senate is specifically saying "no" in regard to one part of the recommendations of the McClellan committee. I hope that is not the case. But in view of the action which the Senate has taken thus far, I am afraid that only the good Lord Himself can intervene to save this specific part of the recommendations which are set forth in the interim report of the McClellan committee.

Mr. ALLOTT. Mr. President, I note that the senior Senator from North Carolina [Mr. ERVIN], with whom I previously had a colloquy, is still on the floor. He made some remarks concerning the lack of necessity for adoption of the amendment and the failure of Federal statutes to place a fiduciary responsibility on such persons. Of course, since he and I had that colloquy, very little time has elapsed; and thus I have not had opportunity to make a complete research into the point. But I wish to read now from supplement V of the United States Code, titles 44–50, tables and index, commencing at page 3689. Let me say that I do not know whether this part of the supplement has subsequently been amended or added to; but, in any event, I shall read from this page, in order to show the areas in which the Congress already has legislated:

FIDUCIARIES

Bank holding company, this index.

Banks, assessment for examination of fiduciary activities, 12, section 482.

Guardian and ward, generally, this index.

Income tax, this index.

Internal revenue:

Assessment, request for prompt assessment, 26 (I. R. C. 1954), section 6501.

Definition, 26 (I. R. C. 1954), section 7701; notice: fiduciary relationship, 26 (I. R. C. 1954), section 6903; address for notice of liability, 26 (I. R. C. 1954), section 6901; qualification of fiduciary: bankruptcy law, suspension of limitations on assessment, 26 (I. R. C. 1954), section 6872; Secretary of Treasury of qualification as fiduciary, 26 (I. R. C. 1954), section 6036.

Investments, obligations of Federal intermediate credit banks, 12, section 1045.

National banks, assessment for examination of fiduciary activities, 12, section 482.

Parent or guardian as including fiduciary, 38, section 1032.

Payment to fiduciary of benefits under civil-service retirement due person under legal disability, 5, section 2264.

Restraining assessment or collection of tax against, 26 (I. R. C. 1954), section 7421.

Servicemen's and Veterans' Survivor Benefits Act, this index.

Stamp tax, exemption, 26 (I. R. C. 1954), section 4342.

Tax Court of United States, substitution of parties, rules, 26 (I. R. C. 1954), section 7453, rule 23.

Wholesale liquor dealers' tax, exemption, 26 (I. R. C. 1954), section 5113.

Furthermore, Mr. President, a number of other instances come to my mind, namely, that of the officers of Federal savings and loan institutions; that of the officers of production credit banks; that of the officers of rural electrification associations. All of them serve in a fiduciary capacity.

A few minutes ago the Senator from Massachusetts [Mr. KENNEDY] questioned me about the fiduciary matters referred to in Senate bill 2888. Of course, he was correct in that respect, as I said at that time. But I believe what he has forgotten is that when the committee wrote its first interim report—and let me point out that it was ready for examination and study by all Members of the Senate when they returned for the beginning of this session, in January of this year; there was then in galley-proof form, about 2 feet long, a report consisting of 28 pages of galley proof—1 section of it, a section upon

which a great portion of the argument hinged, was based on the fact that all welfare and pension funds, regardless of their source, regardless of whether they are multilaterally or unilaterally administered, regardless of whether they are contributory or noncontributory—no matter what their nature—are trust funds or fiduciary funds, and an employee who administers them becomes a fiduciary.

As a matter of fact, all one has to do is look at the final report on S. 2888 and he will see that some of my argument—as a matter of fact, a great deal of my argument—on the floor is on the basis that there is a contractual relationship, and not a fiduciary relationship, involved. But take the report of the majority, to which I did not subscribe, and on page 10 of the majority report on S. 2888, in the middle of the page, appears the statement:

> The administrator of a plan, whether he be an employer, union official, or independent trustee, bears a fiduciary relationship to the employee-beneficiaries if he takes their contributions or part of the compensation which would otherwise be paid them to buy insurance or to finance a pension plan.

I now refer to S. 2888, and turn to page 6, under "Coverage." I find every pension and welfare plan complying with the numerous requirements set forth—and only Government plans are exempted, practically—is required to report.

Approximately 90 percent of these plans happen to be contributed to solely or primarily by the employer. Yet the chairman of the subcommittee in that instance, who happens to be the chairman of the subcommittee which considered this bill, contended that the trustee relationship must apply to every employer, even though he is administering a welfare or a pension fund for which he puts up all the money himself and to which the employee does not contribute a cent.

Compare that with the situation which is before the Senate tonight—and a very peculiar situation it is—where it is contended that when a man puts up his money to join a labor union and to maintain membership in the union, the officers who handle his money have no better than a contractual relationship with him.

If a person who handles his own money is placed, with relation to other persons, as a fiduciary, how much more is it so in the case of a union official who handles the money which is contributed by his own membership and by the poor people who elected him?

We went much further in S. 2888 than we go in the proposal now before the Senate. I attempted to point this out last night. In S. 2888, on page 17, line 6, we not only provided, as this bill did not provide as it came to the floor, that reports must be given to the membership itself, but we provided that the employer himself who supplied all the money for pension and welfare funds not only had to report to the union, not only had to report to each individual, but we exposed to the whole world the operations of that fund. We did not even limit it to the union or the persons who were interested in it.

Let me read from line 6, page 17, of S. 2888:

> The Secretary shall make copies of such registration, annual report, or other document available for examination in the public documents room of the Department of Labor.

So we have the rather ridiculous standard that a man who has put up his own money to provide a welfare and pension fund must not only, as is provided in the following paragraph, send a report to each participant or beneficiary requesting it, but he also has to file it with the Secretary of Labor. And there it is subject to the scrutiny of whom? Not only the union members for whom it is established; not only the officers of the union; not only the national officers of the union; but the whole world, including his competitors. Yet we quaver and quiver about establishing such small, minor, weaker standards and obligations in the pending measure.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. ALLOTT. I yield.

Mr. GOLDWATER. I hope I am not interrupting the thought of the Senator from Colorado, but this just occurred to me. Inasmuch as the distinguished Senator from Colorado and I were minority members of the committee, and have been charged in various statements with wanting more restrictive legislation, of wanting union-busting legislation, of wanting stronger legislation, I should like to ask the Senator from Colorado if he feels that protecting the funds of individual union members is union-busting.

Mr. ALLOTT. Of course, there can be only one answer to that question. I am sure the Senator from Arizona, in his private life has, and I know in my private life, as an attorney, as an officer of a savings and loan institution, and in many other situations, I have assumed the qualities and the responsibilities of a fiduciary relationship. It is incomprehensible to understand why a person should hesitate to assume the standards and duties that go with a fiduciary relationship when he handles money of the people who contribute it to the union.

Mr. GOLDWATER. Mr. President, will the Senator yield further?

Mr. ALLOTT. I yield.

Mr. GOLDWATER. Would the Senator say legislation such as is proposed by the Smith amendment, which would protect the money of union members, is in any way a detriment to the further organization of unions in this country?

Mr. ALLOTT. On the contrary, no. In fact, in view of the Federal statute which I have just quoted, and which deals with other fields, I find it difficult to realize how anyone can really advance a successful argument against the assuming of a fiduciary relationship. After all—and this is the part I was just about to close upon—what are we doing here? I think, too often, when people start dealing with unions, almost immediately a sort of metamorphosis takes place, and they wrap their minds in cocoons or in mothballs and fail to reason.

I can see no reason why a union officer who, as a union officer, takes the money of his fellow employee in dues or in initiation fees should fail to assume a full fiduciary responsibility, or, as it is said in the report, a position of trust with respect to those funds. It is simply incomprehensible to me what argument or reason could be advanced for not having those men assume such responsibility.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. ALLOTT. I yield.

Mr. GOLDWATER. Much has been said on the floor, particularly today, to the effect that a bill which is tougher or stricter than the pending one would stand no chance of passage and enactment. I think the Senator has answered me, but in the Senator's mind is there anything more strict or tougher about the bill with the Smith amendment than the bill without?

Mr. ALLOTT. The only thing I can see which may be tougher is that it would require a union official to act more strictly and be civilly liable in more instances for the handling of the membership funds. I see no objection to that.

Mr. GOLDWATER. The Senator may have hit upon the quick answer which is being developed over the long term in my mind, when he said that union officials might object to it. Perhaps we are approaching the hidden persons, the nebulous individuals, whose heads we have heard being beaten against the wall all day, who say, "No legislation can be passed unless it is confined within certain limits."

I hate to think it, but perhaps the union leaders have said, "We will not take this bill with this amendment in it." I hate to think that is so, after having heard the woes of the union members over a year and a half of hearings, for which nearly a million dollars of the taxpayers' money was spent.

Today, for some unknown reason, time and again I have heard my colleagues say on the floor, "We cannot pass legislation more restrictive or more strict." I cannot figure out what is restrictive or strict about trying to protect the money of a union member. I cannot get through my head the reason for the timidity on the opposite side of the aisle about accepting the amendment. Frankly, I do not know how a Senator who votes against the amendment is going to justify his vote when he goes home and Mr. Joe Union Member says to him: "Why are you against me? Why do you not want to protect my money? Why do you want Dave Beck and the Brewsters to continue buying yachts, to continue to spend money on women, to buy"—as I remember—"goose liver, champagne, trips around the world, and trips to Miami?"

I would hate to be in that position, whether I lived in North Carolina, Massachusetts, or New Mexico. I would hate to think of going home and having a union man say to me: "Senator, you surely did me wrong."

Mr. ALLOTT. I will say to the Senator I do not propose to justify the buying of goose liver.

Mr. GOLDWATER. A vote against the amendment will be justifying the buying of goose liver.

Mr. ALLOTT. The Senator is exactly correct.

If the Senator has more questions I shall be happy to yield, but otherwise I desire to conclude with this thought: I do not know what cocoon engulfs our minds when we start talking about unions. There has not been proposed upon this floor or in the committee, of which I am a member—and I was present at the committee hearings, I believe, all the time, or substantially all the time—one amendment which would not enlarge the powers of the individual member of a union, which would restrict the rights of the union member, which would restrict in any way the right of the union member to bargain, or which would restrict in any way the rights of the union member under the Taft-Hartley Act. The pending amendment would guarantee the union member many rights he has never had before.

I do not know why we should impose on union leaders and officers a lesser responsibility than we require of lawyers in the practice of law, or brokers, or real estate agents, or the officers of rural electrification associations, or the officers of Federal savings and loan associations, or officers of banks, or officers of production and credit associations, or anyone else, upon whom a fiduciary responsibility is placed. In my opinion there is absolutely no justification for imposing on union leaders a lesser responsibility, particularly in view of the rigid impositions we placed, in S. 2888, upon those who handle not money of other people but money of their own.

SEVERAL SENATORS. Vote! Vote! Vote!

Mr. ERVIN. Mr. President, the able and distinguished Senator from Colorado read from the United States Code index certain references to fiduciaries. The reading of the index reminds me of an event down in my section of North Carolina. The people who have relatives buried in churchyards there meet occasionally and clean off the briars and weeds growing on the graves. As a general rule, the custom is for each individual to do his own work. On one occasion, however, when there was one of these cleanup ceremonies down in my county, there was a person much like myself, somewhat lazy. So he hired a boy named George to go along with him to the cemetery to do his work. Well, George was down on the grave pulling the weeds off, and all at once he burst into laughter. His employer said, "George, what in the world are you laughing at?" George said, "I am laughing at them funny words writ down on this tombstone." His employer said, "George, I don't see any funny words written on that tombstone." George said, "Just read here where it says, 'Not dead, but sleeping.'" His employer said, "George, I do not see anything funny about that." George said, "Well, boss, he's not fooling anybody but himself." [Laughter.]

When the able and distinguished Senator from Colorado read from the index to the lawbook for the purpose of challenging or rebutting my statement that there is no Federal statute defining the general duties of the Federal fiduciary, he fooled nobody but himself. If the Senator will read the statutes the index refers to, he will not even fool himself.

I will pick up one of the statutes for an example. Title 26, section 3797, subsection (6), is one of the statutes referred to. It reads:

> The term "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

Each one of these fiduciaries, with the possible exception of a receiver or a conservator, is appointed under State law and his duties are defined under State law. This provision is a part of the Internal Revenue Code which defines fiduciaries who must pay income taxes for estates, wards, trusts, and so forth under the code.

Another sample of such statutes is title 12, section 941, which provides as follows:

> 941. Fiduciary and trust funds—security for public deposits.
>
> Farm loan bonds issued under the provisions of this chapter by Federal land banks or joint stock land banks shall be a lawful investment for all fiduciary and trust funds, and may be accepted as security for all public deposits.

This provision defines the investments which may be made by national banks, which, of course, the Federal Government can do.

Despite the voluminous references in the index, none of such references, in my honest judgment, refers to any statute which undertakes to define any obligations of a Federal fiduciary such as would come under the undefined amendment which has been offered.

All I have to say further on this subject is that I am in favor of protecting union funds. I have voted for bills to do it. However, I am opposed to cluttering up the law books with an amendment which undertakes to create a right of action resting upon a supposed Federal fiduciary obligation when there is no Federal law to define what that fiduciary obligation is.

Mr. JOHNSTON of South Carolina. Mr. President, will the Senator yield?

Mr. ERVIN. I yield.

Mr. JOHNSTON of South Carolina. Is it not also true that on this same subject there are 48 different State laws?

Mr. ERVIN. That is true. If the proposed statute is to have any meaning whatever, we must select the fiduciary obligation to be enforced.

Mr. JOHNSTON of South Carolina. And we would not know which one to select.

Mr. IVES. Mr. President, I rise to clear up a statement which I believe was inadvertently placed in the RECORD earlier this evening. I think it was unintentional.

One of the speakers made a statement to the effect that the legislative recommendations on pages 451, 452, and 432 of the select committee's report were signed by members of the select committee. I am sure I am correct in making the statement that such a thing never occurred. I never signed any document of such a nature. The only action that was ever taken as a whole by the members of the committee, or by the committee itself, was the action taken on the five recommendations found on page 450. Those recommendations are:

> 1. Legislation to regulate and control pension, health, and welfare funds.

That bill has already been passed by the Senate.

> 2. Legislation to regulate and control union funds.

That legislation is taken care of in the bill before us.

> 3. Legislation to insure union democracy.

That calls for the secret ballot; and that provision is in the bill before us.

> 4. Legislation to curb activities of middlemen in labor-management disputes.

That is in the bill before us.

> 5. Legislation to clarify the "no man's land" in labor-management relations.

Let me repeat that—"legislation to clarify the 'no man's land' in labor-management relations." That is what the amendment offered by the distinguished Senator from South Dakota [Mr. CASE] would do. The amendment which I had offered as a substitute for the Watkins amendment earlier this afternoon, and which was voted down, was finally approved by a voice vote in the Senate. But that is what that amendment would do.

So I think I can safely say that all the basic recommendations made by the select committee have been carried out in the proposed legislation now before us as it stands.

Mr. BUSH. Mr. President, will the Senator yield?

Mr. IVES. I yield.

Mr. BUSH. I invite the Senator's attention to the language on page 6 of the bill, which deals with direct and indirect loans to officers. This section, beginning in line 4, requires labor organizations to file with the Secretary a financial report which will disclose direct or indirect loans to any officer, and so forth.

In the pending amendment of the Senator from New Jersey, the provision on page 2, under (b), deals with a relationship of trust between the labor organization and its members; and it provides that every officer shall have that relationship and be responsible in a fiduciary capacity for money or other property in his possession in which the members have rights set forth in the bill.

My question is this: Does the Senator believe that it is proper, because of the existence of the fiduciary capacity, for officers of a union to lend money to themselves?

Mr. IVES. That subject is covered in subdivision 4, on line 16, on page 6.

Mr. BUSH. That is correct. The language provides that disclosure must be made of direct and indirect loans to an officer.

Mr. IVES. To be perfectly honest, I do not think so, and I objected to that particular provision of the bill. However, I yielded on that point.

Mr. BUSH. The thought which has been going through my mind is that it would be a good idea to prohibit union officers from lending money to themselves.

Mr. IVES. To themselves; yes.

Mr. BUSH. That is what I wished to bring out. Would not this amendment prohibit such a thing?

Mr. IVES. It would be easy enough to modify the language of the bill as it stands.

Mr. BUSH. I am not sure that it should be modified. I wish to establish the fact, first, that the bill probably would prohibit such loans.

Mr. IVES. I think it would.

Mr. BUSH. I think that is a good idea, because time after time in the history of financial institutions, when officers have been guilty of lending money to themselves, such a practice has led to disaster and corruption. We have only to read the hearings before the McClellan committee to learn that in the case of labor unions the same thing has occurred. I wish to bring out the fact that I believe this provision would prohibit loans to officers of labor unions by themselves. The establishment of the fiduciary or trust capacity would do that. I think it is in the interest of the union and its members to do so.

Mr. IVES. I agree with the Senator on that point, but I do not approve of the amendment.

Mr. BUSH. I am discussing only one aspect, and that is whether or not this provision would prohibit the lending of union funds by an officer to himself.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. IVES. I yield.

Mr. CURTIS. I invite the attention of the distinguished Senator from Connecticut to the fact that the language on page 6 of the bill does not prohibit loans.

Mr. BUSH. I am aware of that.

Mr. CURTIS. It merely requires reporting.

Mr. BUSH. Yes.

Mr. CURTIS. The loan may be reported by an officer other than the one who received the loan. So the two provisions are not in conflict. But without the Smith amendment, I think we would be failing to do that which we should do to protect the funds of union members.

Mr. BUSH. Mr. President, may I ask the Senator from Nebraska a question, with the permission of the Senator from New York?

Mr. IVES. I yield for that purpose.

Mr. BUSH. I ask the Senator from Nebraska whether he agrees that the Smith amendment would have the effect of prohibiting loans by union officers, of union funds, to themselves?

Mr. CURTIS. I believe it would.

Mr. BUSH. Does the Senator think that is a good idea?

Mr. CURTIS. Much of the corruption which has been disclosed on the part of racketeer union leaders—and we are talking about only a minority of them—has come about by reason of the fact that they have taken possession of the assets of the union and have managed them as though they were their own. They have bought yachts, taken trips, made investments, put their families in business, and all that sort of thing. They have not regarded the union funds as other people's money. That is what the Smith amendment would prevent.

Mr. BUSH. Mr. President, I should like to make one further observation. I believe that one of the worst practices in the history of lending which has developed from time to time is the business of men in a trust capacity or in a capacity of being responsible for other people's money, lending that money to themselves on their own authority. Most banks now prohibit the lending of money to their own officers—and correctly so. Most corporations prohibit lending funds of a corporation to its own officers; and I think correctly so.

In view of all the revelations we have had in the past 2 years as a result of the findings of the McClellan committee, it is high time that the unions themselves prohibited loans of union funds by officers to themselves. I hope very much that the effect of the proposed legislation will actually be to prohibit it.

Mr. IVES. If I may comment on that statement, I certainly will not quarrel with the idea of the Senator from Connecticut in that connection, but it is not necessary to adopt the Smith amendment to do that.

Mr. BUSH. The Smith amendment is not my amendment, but I wish to make sure whether that would be the effect of it.

Mr. IVES. It probably would be.

SEVERAL SENATORS. Vote! Vote!

Mr. LAUSCHE. Mr. President, I send an amendment to the desk. I ask that it be printed and placed on the table, to be available to my colleagues.

The PRESIDING OFFICER. The amendment will be received and printed, and will lie on the table.

Mr. LAUSCHE. The amendment proposes to strike from the bill section 604, appearing at pages 38 and 39—

Mr. BUSH. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. LAUSCHE. The amendment proposes to strike from the bill section 604, appearing at pages 38 and 39 of the bill, and substitute therefor the provisions of S. 3098, introduced by the Senator from New Jersey [Mr. SMITH] at this session of Congress.

The substitute language is taken verbatim from S. 3098, through which the Senator from New Jersey contemplated allowing an employer and a labor union engaged in the building and construction industry voluntarily to enter into a collective-bargaining agreement even though the existing or future employees had not authorized the particular union to represent them.

The ultimate purpose of the existing language in section 604 and that of the substitute which I propose is identical. Both contemplate granting to a labor union the right to act as a bargaining agent without any previous authority from the workers. The difference between the two provisions is that S. 3098, introduced by the Senator from New Jersey [Mr. SMITH], protects to a reasonable degree, while section 604 of the pending bill does not protect the affected workers at all.

Under my amendment the right of a union to represent workers is attached to certain conditions, taken from the Taft-Hartley Act. The union, under the committee bill, is given the extraordinary right unconditionally.

Under my proposed amendment, the union's right to represent the workers without previous authority shall not apply unless, first, there is a history of collective-bargaining relationship between the petitioning employer and the union or, second, unless the Board finds, based upon a complaint made by an employee, a group of employees, or any individual or labor organization, that a substantial number of the current employees claim that they are not represented by the union.

Moreover, under the pending bill, a worker, as a condition to the right to work, would be compelled to join the union in 7 days, while under my proposal, as taken from the Smith bill, it would be 30 days, as generally provided by the Taft-Hartley Act.

Mr. MORSE. Mr. President, I turn to a brief discussion of the pending amendment. I wish to make a brief argument against it. I interpret the amendment to involve the basic purpose of declaring that all union funds are trust funds. I judge that that is a fair interpretation, at least of one of the major purposes of the amendment, as I read it:

> (b) Every officer, agent, or other representative of a labor organization to which subsection (a) applies shall, with respect to any money or other property in his custody or possession by virtue of his position as such officer, agent, or representative, have a relationship of trust to the labor organization and its members and shall be responsible in a fiduciary capacity for such money or other property in which the members have the rights stated in this section.

There was a proposal before our committee on this subject. It was not pressed. The proponents did not provide data in support of it.

Every lawyer in the Senate knows that there is probably no legal subject more complicated than the law of trusts, unless it might be future interests in the law of real property. We all know great practitioners in our States whose specialty is the law of trusts, who, when they get to their declining years, say to young lawyers: "I am just begining to understand something about the law of trusts."

That is how complicated this field is, which here on the floor of the Senate tonight it is proposed, without the consideration a complicated subject such as this ought to have, to apply to union funds by adopting the pending amendment.

It is proposed to do that without even a summary of the trust laws of the various States before us. We are asked to adopt a vast, complicated system of law. We are asked here on the floor of the Senate to bring union funds into the trust system of law, with all the volume of statute and case law involved, and apply it, sight unseen, to union funds.

The Senator from North Carolina [Mr. ERVIN], a distinguished former justice of his State supreme court, has very rightly suggested the main point I wish to stress in this brief argument. He demonstrated that there is no Federal law on the subject, and closed by observing that State laws would apply under the amendment. That is what we are asked to do: To bring union funds under at least 48 different sets of trust laws. In doing so, we may be denying rights which courts are constructing on nontrust theories of contract and tort. The courts are establishing theories of responsibility based upon the representative character of the unions. But now it is proposed, by the pending amendment, that technical and complex rules of trust shall be applied to union finances and union relationship. Of the many examples which could be cited—and I could stand here all night, to show how dangerous such an amendment as this would be if we were to adopt it, without greater attention being paid to an analysis of the individual trust laws of the several States—I suggest that we consider the example I now cite.

Under this amendment would union officials have the traditional duty to invest funds for profit or stand to lose personally? That is the risk the trustee runs in a good many States under the trust laws. He has the duty to invest the trust funds and to use the best judgment he can to invest them at a profit. If he does not do so, he has to stand the loss personally.

Is that what is contemplated by this amendment? There will be those who will so charge. I am not charging it; I am simply raising the hypothetical. But if it is involved, and if that is the requirement under some State trust laws, as it is, then we have here a very interesting device for putting the union funds into a nonliquid condition, so that the union cannot conduct an effective strike. A union has to have its funds in a position so that they can be obtained quickly to pay strike benefits, to take care of the picket lines, and to conduct an effective strike against an employer.

The question I have just raised in this hypothetical cannot be answered until one sits down and, in a prolonged committee study, analyzes the 48 State trust law systems throughout the Nation, learns what they require of the trustee, and understands what duties are imposed upon the fiduciary relationship under the trust laws.

As applied to union funds, I submit that to impose any such trust obligation as my hypothetical raises would be foolish. But it is a common requirement of trust laws. On page 3 of the bill we see the burden which is to be imposed upon unions; and a severe burden it will be.

We are enacting disclosure legislation in regard to finances. The State courts are fashioning the protections for the interests of the union members in their funds. Let us know what we are doing before we sweep away nontrust theories of protection and apply the highly technical trust activities which are an unknown quantity as we sit here tonight.

I submit, respectfully, that I do not think there is a lawyer in the Senate, including the present speaker, who, if examination papers were being passed out tonight for an examination on the law of trusts, based on the trust laws of our own States, could pass the examination, because that is a highly technical field of law; and the human mind being what it is, most of us who have not been active in the practice of trust law would have forgotten a good many of the trust theories we learned in the law of trust back in our law-school days. This, I repeat, is a highly technical field of law.

I close my argument by asking, What did the committee try to accomplish in regard to better control of union funds? What is the theory of this phase of the bill which the committee has reported? If Senators do not agree with this theory, then vote the committee down. We had the benefit of the McClellan hearings, and we took a little testimony ourselves before the Committee on Labor and Public Welfare. We found that there have been abuses on the part of some union officials who have betrayed the trust which they owed to the rank and file members of their unions. That was what we found.

We decided we must write into the bill something which would require disclosure beforehand of such activities as those of the Becks and others who have betrayed their union members with respect to union funds. So we said: We will cooperate with the reliable union leaders as they are represented by the AFL–CIO, as they have promulgated their code of ethical procedures which is to be binding on the member unions of that great labor movement. We will strengthen their hand by passing a law which will require the disclosure of financial practices within unions.

We will require the publication and disclosure of the amount of money they have collected, what their disbursements have been, what they have spent the money for, to whom they have loaned it, and why they have loaned it. We have written that into the bill. We feel that if we are to keep faith with the principle of voluntarism in the operation of the trade union movement, the first step we ought to take is the step for disclosure and the requirement of disclosure and the imposition of penalties upon the individual union officials if they refuse or fail to disclose. We suggest that we ought to try that.

I think the bill provides a very effective broom with which to sweep out bad practices and abuses which may have crept into the house of labor. But certainly we will defeat our purposes if we now yoke around the neck of the labor movement all the technical trust law requirements of some 48 systems of trust law throughout the Nation. I hardly think the Senate is ready to do that. Senators have not sufficiently studied the problem. They do not know enough about its effects. They cannot pass an elementary examination on its consequences.

This proposal sounds nice. It is very plausible to say that we must insist upon the fiduciary relationship toward union funds on the part of the officers of unions. This sounds fine; but we had better take a look at its legal consequences. If we do that, then, in my judgment, I think we will reject the amendment by an overwhelming majority.

Mr. BUSH. Mr. President, will the Senator yield?

Mr. MORSE. I yield.

Mr. BUSH. I should like to ask a question about direct or indirect loans to officers, the reporting of which is required by the bill. I have said it is bad practice and ought to be prohibited in the pending legislation. So long as the Senator from Oregon is talking about the question of fiduciaries, and has made a very interesting case on it, I should like to have him comment on the question whether the matter of the officers of a union making loans directly to themselves from union funds should or should not be prohibited in the interest of decent management and in the interest of all union members.

Mr. MORSE. The Senator from Connecticut poses a very troublesome question. I want to summarize for him what happened in our committee in regard to it, as I recall, and what my position was on it in the committee, because we discussed the matter in the committee at length.

Mr. BUSH. Did the Senator actually consider the question of prohibition?

Mr. MORSE. The decision of most of us was finally against a prohibition.

The discussion ran along these lines: The first thing which is important is to insist upon the requirement in the law that the members of unions know about the loan, and that they know the purpose for which the loan was made. They should know the terms and conditions of the repayment of the loan. The bill requires such disclosures.

The committee felt, after we had batted the question back and forth, so to speak, that in some circumstances members of the union might very well want to authorize a loan, either to an officer of a union or to a member of a union. I think I was the one in the discussion, as I now recall, who used an extreme, exaggerated case to illustrate the point I had in mind.

I said: "Suppose a union official or a union member who was driving with his family suffered a horrible automobile accident, and his wife and four youngsters were put into a hospital for months at a terrific expense. He did not happen to be insured, but the union knew the plight of the officer and decided, under those circumstances, to make a loan to the officer to pay the hospital bills and to supply the necessities of life in the meantime, with the membership having full knowledge of the conditions of repayment."

I think it would be very unreasonable to take the position that under no circumstances could a union make a loan to that officer.

Mr. BUSH. The Senator said a while ago in his remarks, I think, that the purpose of the union funds was to have them ready instantly; that they should be in cash or readily available and convertible into cash, so that they might be quickly used when needed for union purposes.

Does not the Senator believe that if union officers make a practice of tying up union funds in loans to themselves or other officers, it would interfere with that very process?

Mr. MORSE. That is something which is for the union members to decide; it is not for the United States Senate to decide for them. It is for the union members to decide. If we provide a democratic procedure in the bill—and I think we do—under which the union members will have a chance to control their union's affairs, then I say, most respectfully, that if they want to make a loan of $5,000, $7,000, or whatever amount of money may be necessary to help over the hump the union official who has had the horrible accident to which I referred, I think they ought to be free to do it. I do not believe Congress ought to say: We prohibit you from voting to use your union money in that cause.

Let us consider another example. My colleagues will recall that I referred to this one in the committee. I said, "Suppose in a community a drive is being conducted for the construction of a community hospital; and suppose the members of the union think it would be in the long-term interest of the union to have the hospital built, and that it would be good public relations for them to lend some of their union's funds for the building of the hospital. So suppose they decide, under their union procedures, that the union will loan $15,000 or $20,000 to the organization which is seeking to raise sufficient funds to have the hospital constructed. In such a case, should the Senate decide to vote for the enactment of a law which would prohibit the union members from lending that amount of money for the construction of the hospital?"

So, Mr. President, I stress the point that I believe the Senate will be going far enough—certainly, far enough for now, in order to be able to try it out—if it decides that, by means of this law, the rank-and-file members of the union will be guaranteed that they will know what is going on in the case of their union funds.

Mr. BUSH. But, Mr. President, I am not referring to the use of union funds for the construction of a hospital. I am referring to a case in which a union officer lends the union funds to himself.

Mr. MORSE. But I am trying to tell the Senator from Connecticut that if we bring those who handle the union funds under the trust or fiduciary law of a State, we shall not have the slightest idea, in fact, about what restrictions may be placed on them, in connection with the use of those funds. We shall not know whether, in such a situation, the union officials will or will not be able to lend some of the union's funds for the construction of a community hospital; we shall not know whether a State court will be required to step in and to say, "Under the laws of this State, you must, as a trustee or fiduciary for these funds, take steps to meet the requirement for the payment of the amount of interest that must be paid in the case of the use of such funds to make commercial loans; and if you do not meet that requirement, if you do not take steps to provide that that amount of interest or profit shall be made from the use of these funds, we shall hold that you must pay, out of your own pocket, the difference into the treasury of the union."

Mr. BUSH. But is it not a fact that State laws actually prohibit corporations or banks from lending money to their own officers?

Mr. MORSE. Yes; that is my hazy recollection of the law in some jurisdictions.

Mr. BUSH. In that case, it seems to me that the situation I have referred to is no different. The question is one of principle; the question is one of whether such conduct or such use of funds would be right and moral—whether it would be right and moral for one who serves in a fiduciary capacity or a trusteeship capacity or who is in charge of, and responsible for the care of such funds to lend them to himself. I do not see why, in that connection, the rule in the case of a labor union should be any different from the rule in connection with a financial institution or a corporation engaged in business.

Mr. MORSE. I see now what our difference is. I respect the point of view of the Senator from Connecticut. Our difference is that in my opinion a labor union is quite different from a corporation, and the purpose of a labor union is quite different from the purpose of an investing corporation. A labor union is a corporation of men and women who have bound themselves together to bargain collectively for better wages, hours, and conditions of labor, and to act in concert on the economic front to get those better conditions, if they are not able to get them otherwise. That purpose is quite different from the purpose of a corporation.

Furthermore, a labor union has fraternal objectives which a corporation does not have; and when we speak of fraternal objectives, we speak of the kind of situation I am talking about when I refer to a case in which the wife and children of a union member have been seriously injured in an automobile accident, or when I refer to a union whose members think they would do well to cooperate with their community by lending some of their union's money—probably without interest—for the construction of a community hospital.

If the union officials who handle the money are placed in a trustee relationship, consider what would happen if a case involving the use of those funds was brought before a court, and consider what a court would say about a union official who served in a trustee or fiduciary relationship and who would lend that money without interest.

Mr. BUSH. I quite agree with what the Senator from Oregon says about the difference between a union and organizations of the type of those I have mentioned.

Nevertheless, from my point of view, it makes no difference whether the organization be a fraternal one or one of any other type: If an officer of the organization is charged with the responsibility of preserving and managing its funds, it is wrong for him to lend the funds to himself; and that should be prohibited.

Mr. MORSE. I understand the point of view of the Senator from Connecticut; but I think it makes a great deal of difference in the case of a fraternal organization.

But the important point in connection with the pending bill is that it takes steps to protect the rank-and-file membership, so they may have full knowledge of what is done with their funds, so they will be able to exercise their sanctions and checks if they do not like what is done with their funds by the officers of their union.

If that had been the situation in the case of Dave Beck and the Teamsters Union, I do not think Dave Beck and the others would have been able to get by with their misuse of the union's funds.

Mr. JOHNSON of Texas. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. YARBOROUGH in the chair). The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Aiken	Goldwater	Monroney
Allott	Green	Morse
Anderson	Hayden	Morton
Barrett	Hennings	Mundt
Beall	Hickenlooper	Murray
Bible	Hill	Neuberger
Bricker	Holland	Pastore
Bridges	Hruska	Payne
Bush	Humphrey	Potter
Butler	Ives	Proxmire
Byrd	Jackson	Purtell
Capehart	Javits	Revercomb
Carlson	Jenner	Robertson
Carroll	Johnson, Tex.	Russell
Case, N. J.	Johnston, S. C.	Schoeppel
Case, S. Dak.	Jordan	Smathers
Chavez	Kefauver	Smith, Maine
Church	Kennedy	Smith, N. J.
Clark	Kerr	Sparkman
Cooper	Knowland	Stennis
Cotton	Kuchel	Symington
Curtis	Lausche	Talmadge
Dirksen	Long	Thurmond
Douglas	Magnuson	Thye
Dworshak	Malone	Watkins
Eastland	Mansfield	Wiley
Ellender	Martin, Iowa	Williams
Ervin	Martin, Pa.	Yarborough
Frear	McClellan	Young
Fulbright	McNamara	

The PRESIDING OFFICER. A quorum is present.

The question is on agreeing to the amendment of the Senator from New Jersey [Mr. SMITH], offered for himself, the Senator from Connecticut [Mr. PURTELL], and the Senator from Colorado [Mr. ALLOTT]. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD. I announce that the Senator from Tennessee [Mr. GORE] and the Senator from Wyoming [Mr. O'MAHONEY] are absent on official business.

Mr. DIRKSEN. I announce that the Senator from Utah [Mr. BENNETT], the Senator from Vermont [Mr. FLANDERS], and the Senator from Massachusetts [Mr. SALTONSTALL] are necessarily absent.

The Senator from North Dakota [Mr. LANGER] and the Senator from West Virginia [Mr. HOBLITZELL] are absent on official business.

If present and voting, the Senator from Utah [Mr. BENNETT], and the Senator from Vermont [Mr. FLANDERS], would each vote "yea."

The Senator from West Virginia [Mr. HOBLITZELL] is paired with the Senator from North Dakota [Mr. LANGER]. If present and voting, the Senator from West Virginia would vote "yea" and the Senator from North Dakota would vote "nay."

The result was announced—yeas 42, nays 47, as follows:

YEAS—42

Allott	Curtis	Mundt
Barrett	Dirksen	Payne
Beall	Dworshak	Potter
Bricker	Eastland	Purtell
Bridges	Goldwater	Revercomb
Bush	Hickenlooper	Robertson
Butler	Hruska	Schoeppel
Byrd	Jenner	Smith, N. J.
Capehart	Knowland	Thurmond
Carlson	Kuchel	Thye
Case, N. J.	Martin, Iowa	Watkins
Case, S. Dak.	Martin, Pa.	Wiley
Cooper	McClellan	Williams
Cotton	Morton	Young

NAYS—47

Aiken	Holland	McNamara
Anderson	Humphrey	Monroney
Bible	Ives	Morse
Carroll	Jackson	Murray
Chavez	Javits	Neuberger
Church	Johnson, Tex.	Pastore
Clark	Johnston, S. C.	Proxmire
Douglas	Jordan	Russell
Ellender	Kefauver	Smathers
Ervin	Kennedy	Smith, Maine
Frear	Kerr	Sparkman
Fulbright	Lausche	Stennis
Green	Long	Symington
Hayden	Magnuson	Talmadge
Hennings	Malone	Yarborough
Hill	Mansfield	

NOT VOTING—7

Bennett	Hoblitzell	Saltonstall
Flanders	Langer	
Gore	O'Mahoney	

So the amendment offered by Mr. SMITH of New Jersey for himself and other Senators was rejected.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the Smith amendment was rejected.

Mr. JOHNSON of Texas. Mr. President, I move to lay that motion on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas [Mr. JOHNSON] to lay on the table the motion of the Senator from Massachusetts [Mr. KENNEDY] to reconsider.

The motion to lay on the table was agreed to.

Mr. SMITH of New Jersey. Mr. President, I call up my amendment 6–12–58–OO and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated for the information of the Senate.

The CHIEF CLERK. On page 40, line 16, it is proposed to strike out "9 (f)" and the following comma.

On page 40, line 19 through 23, strike out all of subsection (b) and insert in lieu thereof the following:

(b) Clause (i) of section 8 (a) (3) of the National Labor Relations Act, as amended, is amended by striking out "sections 9 (f), (g), (h), and" and inserting in lieu thereof "section 9 (f) and."

(c) Section 9 (f) of the National Labor Relations Act, as amended, is amended to read as follows:

"(f) No investigation shall be made by the Board of any question affecting commerce concerning the representation of employees, raised by a labor organization under subsection (c) of this section, no labor organization shall be eligible for certification under this section as the representative of any employees, and no complaint shall issue under section 10 with respect to a charge filed by a labor organization, unless such labor organization and any national or international labor organization of which such labor organization is an affiliate or constituent unit can show that prior thereto it has (1) filed with the Secretary of Labor the organizational and financial reports and documents required by title I of the Labor-Management Reporting and Disclosure Act of 1958, and (2) has made available to its members copies of such reports and documents as provided in such act."

(d) Until expiration of the period provided by title I of this act for the initial filing of reports and documents by labor organizations as required by such title, compliance with the provisions of section 9 (f) and (g) of the National Labor Relations Act, as amended, as those provisions read prior to the amendments made by this section, shall be accepted as compliance with the provisions of section 9 (f) of such act as amended by subsection (c) of this section.

FEDERAL AVIATION AGENCY— MESSAGE FROM THE PRESIDENT

Mr. JOHNSON of Texas. Mr. President, the Senate received today a message from the President of the United States with regard to midair collisions of aircraft. I ask that the message be appropriately referred, without reading, and that the full text of the message be printed in the RECORD.

The PRESIDING OFFICER (Mr. YARBOROUGH in the chair). Without objection, it is so ordered.

The message was referred to the Committee on Interstate and Foreign Commerce, as follows:

To the Congress of the United States:

Recent midair collisions of aircraft, occasioning tragic losses of human life, have emphasized the need for a system of air traffic management which will prevent, within the limits of human ingenuity, a recurrence of such accidents.

In this message, accordingly, I am recommending to the Congress the establishment of an aviation organization in which would be consolidated among other things all the essential management functions necessary to support the common needs of our civil and military aviation.

Soon after taking office as President I received reports that the increasing speed of aircraft, the rapid growth in the volume of daily flights, and the introduction into common use of jet and vertical lift aircraft were causing serious congestion in the airspace. It was also reported that the aviation facilities then in use were rapidly becoming inadequate for the efficient management of air traffic.

To develop a positive program it was first necessary to obtain more precise information on the nature and seriousness of the air traffic control problem. This task was assigned to an aviation facilities study group appointed at my request by the Director of the Bureau of the Budget.

In its report this study group found that the airspace was already overcrowded and that the development of airports, navigation aids, and especially the air traffic control system, was lagging far behind aeronautical developments and the needs of our mobile population. Development of a comprehensive plan to meet the national requirements for aviation facilities was recommended and it was proposed that the plan be developed by an individual of national reputation. I approved the report and its recommendations and on February 10, 1956, appointed Mr. Edward P. Curtis to the post of Special Assistant to the President for Aviation Facilities Planning.

Mr. Curtis on May 10, 1957, submitted to me a positive plan of action designed to correct the deficiencies which had led to the inadequacies of our aviation facilities system. Mr. Curtis identified the major deficiencies as first, technological, and second, organizational.

While the Curtis plan was under preparation, the Nation was shocked by the most costly civil air disaster in its history. On June 30, 1956, two civil airliners collided over the Grand Canyon and 128 lives were lost. This tragedy gave dramatic support to the view that even in the less congested portions of our airspace the separation of aircraft should not be left to chance or to the visual ability of pilots.

As an essential step in solving the complex technical problems involved, Mr. Curtis called for the creation of an Airways Modernization Board as a temporary independent agency to develop, test and select air traffic control systems and devices. The Congress promptly established the Airways Modernization Board by an enactment which I approved on August 14, 1957.

The Airways Modernization Board is now a functioning organization engaged in developing the systems, procedures, and devices which will help assure that tomorrow's air traffic control measures can safely and efficiently handle tomorrow's aircraft and traffic load. Except for certain facilities so peculiar to the operations of the Armed Forces as to have little or no effect on the common system, all air traffic control facilities are now developed by the Airways Modernization Board. The duplication and conflict between military and civil air facilities research agencies, which have proved so costly in the past, have been eliminated by the partnership which characterizes the new agency. It embodies an approach to facilities research and development which must ultimately be expanded to traffic control operations, namely: a single agency so organized and staffed as to be capable of taking into account the requirements of all categories of aviation.

Some time will pass before the new systems being developed by the Airways Modernization Board can play a decisive part in enhancing the safety and efficiency of the airways. Meanwhile, existing facilities and programs for air traffic management must continue to be expanded and improved if they are to cope with the growing volume of air traffic. This responsibility is currently being discharged by the Civil Aeronautics Administration of the Department of Commerce, which has developed an accelerated Federal Airways Plan calling for the expenditure of large sums to meet

the Nation's short-range air traffic requirements. The Civil Aeronautics Administration's appropriations for installing, maintaining, and operating Federal air traffic control facilities have been sharply increased to enable it to do this job on schedule.

Following the recent midair collision over Maryland, a number of additional measures were taken by the Government to reduce the immediate risk of such accidents. For example, on May 23, 1958, the military services announced they would voluntarily curtail certain flying activities previously permitted by air regulations. Special steps are also being taken to further safeguard air carriers using the more heavily traveled cross-country airways.

With respect to organization, Mr. Curtis recommended that an independent Federal Aviation Agency be established in which would be consolidated all the essential management functions necessary to support the common needs of United States civil and military aviation. He also recommended the appointment of a Special Assistant to the President to implement the programs outlined in his report. On July 17, 1957, I appointed Mr. E. R. Quesada to the post of Special Assistant to the President for aviation matters and charged him with taking the leadership in securing the implementation of the Curtis plan of action.

A fully adequate and lasting solution to the Nation's air traffic management problems will require a unified approach to the control of aircraft in flight and the utilization of airspace. This national responsibility can be met by the active partnership of civil and military personnel in a Federal Aviation Agency as proposed in the Curtis report, and which is able to serve the legitimate requirements of general, commercial, and military aviation.

The concept of a unified Federal Aviation Agency charged with aviation facilities and air traffic management functions now scattered throughout the Government has won widespread support in the Congress and among private groups concerned with aviation. The Congress indicated its position in a provision of the Airways Modernization Act of 1957:

> It is the sense of Congress that on or before January 15, 1959, a program of reorganization establishing an independent aviation authority, following the objectives and conclusions of the Curtis report of May 14, 1957, entitled "Aviation Facilities Planning," be submitted to the Congress.

In accordance with this Congressional directive, it had been my intention to submit recommendations for a Federal Aviation Agency to the Congress early in the next session. The recent Maryland collision has made it apparent, however, that the need for action is so urgent that the consolidation should be undertaken now.

I therefore recommend that the Congress enact at the earliest practicable date legislation establishing a Federal Aviation Agency in the executive branch of the Government and that the new Agency be given the powers required for the effective performance of the responsibilities to be assigned to it.

The Federal Aviation Agency should be headed by an Administrator assisted by a Deputy Administrator, with both officials to be appointed by the President by and with the advice and consent of the Senate.

All functions now carried out by the Civil Aeronautics Administration should be transferred to the new Agency.

All functions and powers of the Airways Modernization Board should also be placed in the Federal Aviation Agency, the responsibilities now lodged in the Board to be discharged by the Administrator through a major division of the Agency devoted to research and development.

Experience indicates that the preparations, issuance, and revision of regulations governing matters of safety can best be carried on by the agency charged with the day-to-day control of traffic, the inspection of aircraft and service facilities, the certification of pilots and related duties. I therefore recommend that the function of issuing air safety regulations now vested in the Civil Aeronautics Board be lodged in the Federal Aviation Agency. Decisions of the Administrator with respect to such regulations should be final, subject, of course, to such appeals to the courts as may be appropriate.

The legislation should require the Administrator to report to the Civil Aeronautics Board the facts, conditions, and circumstances relating to accidents involving civil aircraft. The Board should in turn be empowered to review the Administrator's report and all evidence relating to the accident and should be authorized to make a determination as to the probable causes of the accident. The Board should conduct a public hearing with respect to an accident whenever it considers such hearing to be in the public interest. This distribution of responsibility will place the function of gathering the facts pertaining to accidents in the agency best equipped to do the job and most likely to make early and advantageous use of the findings. At the same time the public will be assured that a Board divorced from immediate responsibility for traffic control or airworthiness operations will receive the Administrator's reports, consider all the evidence, arrive at determinations of causes, and make public such recommendations as the facts may warrant. Appropriate provisions should be made for cooperation between the Agency and military authorities in the investigation of accidents involving military aircraft.

Appropriate Department of Defense functions which are susceptible of effective administration by the new Agency without impairment of the national defense should also be transferred as rapidly as adequate arrangements for their performance and the solution of personnel problems can be worked out.

It is not practicable to prescribe in legislation all the units, facilities and functions, especially in the Department of Defense, which should eventually be lodged in whole or in part in the new Agency. The legislation should therefore give the President the authority to transfer to the Administrator any functions of executive departments or agencies which relates primarily to air traffic management.

Because the Agency will be administering important functions and activities which have heretofore been administered in civil agencies and others which have been carried on in the military services, it is essential that the legislation provide for the staffing of the Agency in such a manner as to permit the participation of military personnel as well as civilians in positions of authority.

The legislation should also impose on the Administrator the obligation to provide for the assignment and participation of military personnel within the Agency in such a manner as to assure that national defense interests as well as the needs of all aircraft for safe and efficient traffic management will be considered in the conduct of the Agency's operations. The development of a genuine civil-military partnership in which all agencies and interests concerned with aviation may place full confidence will be essential to the success of the Federal Aviation Agency.

To assure that the Agency will be able to discharge its responsibilities effectively in time of war or other emergency, plans must be developed and legislation enacted to guarantee that, in the event of emergency, Agency personnel will continue to perform their duties, will be subject to assignment to such posts as may require staffing, and will enjoy appropriate protections and benefits. The executive branch will prepare such plans as quickly as possible and I shall recommend to the Congress the enactment of appropriate legislation at a later date.

The complex transfers and consolidations involved in getting the Agency underway make it desirable that the legislation, other than the provisions creating the Agency, take effect 90 days after enactment. I also recommend that the Administrator be authorized to defer the taking effect of any portion of the act for a reasonable additional period should he find such a delay necessary or desirable in the public interest.

I recommend that the Federal Aviation Agency be given full and paramount authority over the use by aircraft of airspace over the United States and its Territories except in circumstances of military emergency or urgent military necessity.

To assure maximum conformance with the plans, policies, and allocations of the Administrator with respect to airspace, I recommend that the legislation prohibit the construction or substantial alteration of any airport or missile site until prior notice has been given to the Administrator and he is afforded a reasonable time to advise as to the effect of such construction on the use of airspace by aircraft.

I urge that in the interest of proceeding as rapidly as possible with the task of increasing safety in the air, legislation carrying out these recommendations be enacted during the current session of Congress.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, *June 13, 1958.*

TRANSACTION OF ADDITIONAL ROUTINE BUSINESS

By unanimous consent, the following additional routine business was transacted:

LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT OF 1958—AMENDMENTS

Mr. KENNEDY submitted an amendment, intended to be proposed by him, to the bill (S. 3974) to provide for the reporting and disclosure of certain financial transactions and administrative practices of labor organizations and employers, to prevent abuses in the administration of trusteeships by labor organizations, to provide standards with respect to the election of officers of labor organizations, and for other purposes, which was ordered to lie on the table, and to be printed.

Mr. LAUSCHE submitted an amendment, intended to be proposed by him, to Senate bill 3974, supra, which was ordered to lie on the table and to be printed.

EXTENSION OF EXISTING CORPORATE NORMAL-TAX RATE AND CERTAIN EXCISE-TAX RATES—AMENDMENTS

Mr. DOUGLAS submitted amendments, intended to be proposed by him, to the bill (H. R. 12695) to provide a 1-year extension of the existing corporate normal-tax rate and of certain excise-tax rates, which were ordered to lie on the table and to be printed.

ADJOURNMENT UNTIL TOMORROW AT 10 A. M.

Mr. JOHNSON of Texas. Mr. President, pursuant to the order previously entered, I move that the Senate now adjourn until 10 o'clock a. m. tomorrow.

The motion was agreed to; and (at 10 o'clock and 24 minutes p. m.) the Senate adjourned, the adjournment being, under the order previously entered, until tomorrow, Saturday, June 14, 1958, at 10 o'clock a. m.

NOMINATIONS

Executive nominations received by the Senate June 13, 1958:

NATIONAL LABOR RELATIONS BOARD

Philip Ray Rodgers, of Maryland, to be a member of the National Labor Relations Board for the term of 5 years expiring August 27, 1963. (Reappointment.)

UNITED STATES ATTORNEYS

The following-named persons to the positions indicated:

B. Hayden Crawford, of Oklahoma, to be United States attorney for the northern district of Oklahoma for the term of 4 years. (Reappointment.)

Robert Vogel, of North Dakota, to be United States attorney for the district of North Dakota for a term of 4 years. (Reappointment.)

Joseph E. Hines, of South Carolina, to be United States attorney for the western district of South Carolina for a term of 4 years. (Reappointment.)

Herbert G. Homme, Jr., of North Dakota, to be United States attorney for Guam for the term of 4 years. (Reappointment.)

UNITED STATES MARSHAL

Joseph F. Job, of New Jersey, to be United States marshal for the district of New Jersey for a term of 4 years. He is now serving in this office under an appointment which expired June 10, 1958.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 13, 1958:

COLLECTORS OF CUSTOMS

Maynard C. Hutchinson, of Massachusetts, to be collector of customs for customs collection district No. 4, with headquarters at Boston, Mass.

Bernhard Gettelman, of Wisconsin, to be collector of customs for customs collection district No. 37, with headquarters at Milwaukee, Wis.

William A. Dickinson, of Virginia, to be collector of customs for customs collection district No. 14, with headquarters at Norfolk, Va.

EXTENSIONS OF REMARKS

Commencement Address by Senator Hill at Hahnemann Medical College, Philadelphia

EXTENSION OF REMARKS

OF

HON. LISTER HILL

OF ALABAMA

IN THE SENATE OF THE UNITED STATES

Friday, June 13, 1958

Mr. HILL. Mr. President, yesterday I had the honor and the privilege of delivering the graduation address at the 111th commencement exercises of the Hahnemann Medical College of Philadelphia, and I ask unanimous consent to have the address printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY UNITED STATES SENATOR LISTER HILL AT THE 111TH COMMENCEMENT EXERCISES OF THE HAHNEMANN MEDICAL COLLEGE OF PHILADELPHIA, JUNE 12, 1958

Dean Cameron, doctors and guests, students, graduates, and friends of the Hahnemann Medical College of Philadelphia, I am happy and honored to be with you today to take part in the observance of your 111th commencement exercises. For I come as one who has deep roots in the medical history of Philadelphia, and I rejoice at the opportunity to nourish them once again.

It was in Philadelphia that my father, a surgeon and a practitioner of medicine for more than half a century, was privileged to study under the renowned Samuel D. Gross at Jefferson Medical College. Here he acquired, as a student and seeker of medical knowledge, much of the foundation that prepared him for the eventful night—more than 50 years ago—when he performed by lamplight on a rude kitchen table the first successful suture of the human heart in America.

Here my father made warm friendships which endured throughout his lifetime. From Philadelphia he went to London to study under Joseph Lister, whose name I proudly bear. It was at that time that that great benefactor of mankind was fighting to establish the principles of antiseptic and aseptic treatment of wounds, the treatment which gave birth to modern surgery.

It is always a stimulating pleasure for me to be among doctors—not only as the son of a doctor, the nephew of a doctor, the brother-in-law of 2 doctors and the first cousin of 5 doctors—but as one early imbued with a deep and abiding interest in doctors and in the progress of medicine and medical care in our Nation.

One of my chief concerns in the Congress of the United States has long been the field of legislation on health and medicine. I am proud to have played a part in the building of some of the Nation's legislative landmarks in the field of medicine—the Hospital and Health Center Construction Act, which has brought nearly 4,000 hospitals, health centers, and other health facilities to the Nation; the establishment of the National Institutes of Health, with the great impetus to medical research through the institutes in so many of the killing and crippling diseases; the greatly increased Federal support for medical research at our medical schools and research institutions, for the training of doctors, research specialists, and health technicians, and personnel of all kinds, and for the construction of research facilities at our medical schools and other institutions.

I come to you, then, as a member of the family. And as a member of the family, let me say, with affection and respect, what so many tens of thousands of men and women and children will say to you in the years to come. Some will say it with their voices, some with their eyes, all will say in their hearts that which I would be the first to say to you:

Thank you for what you have done.

Thank you for what you will do.

Thank you for what you are.

Thank you for becoming doctors; for having taken the hard way; for having resisted the easy; for having worked and studied and sacrificed so much. Thank you for having had so early in life the wisdom to know that only in a life of constant study and service to your fellow man can your lives be rich and meaningful.

We need you as doctors. People—some in fear, some in pain, some in danger—need you and need the art and the science you have learned.

We need you as citizens. In matters of economics, of sociology, of social welfare, and particularly of the relationship of health and Government, what you say and do will be accorded a respect unsurpassed by that given to any other member of your community. In the past few years the revolutionary strides in the field of health have been achieved largely because of the willingness of men and women in medicine to assume the responsibilities of citizenship. Through vigorous leadership and cooperation with professional and lay leaders, and with legislators, doctors have contributed mightily to an ever-expanding pattern of progress in medicine and its related fields.

You join the profession of medicine in a setting that is rich in its traditions and fruitful in its heritage. You will, I know, honor these traditions and add to this heritage.

Philadelphia was the cradle of American medicine, as she was the cradle of America's political and financial and cultural life.